

## **CHAPTER 2:**

## **New or Replacing Lease**

New or Replacing Lease	2.
Overview: The New or Replacing Lease Process	2.1-1
Part 1: Acquisition Planning/Pre-Solicitation Requirements	2.1-1
Part 2: Market Survey Process	2.2-1
Part 3: Solicitation Process	2.3-1
Part 4: Pre-Negotiation/Negotiations Process	2.4-1
Part 5: Award Determination	2.5-1
Part 6: Design, TI and BSAC Negotiations, and Notice to Proceed	2.6-1
Part 7: Construction Phase	2.7-1
Part 8: Lease Commencement and Closeout	2.8-1
Part 9: Attachments	2.9-1

Overview: The New or Replacing Lease Process

## Overview: The New or Replacing Lease Process

A new or replacing lease utilizes all aspects of the leasing process, from acquisition planning to post-award tenant improvements and occupancy.

It is important to understand the three main categories of leases that PBS executes.

- New or replacing leases are defined as leases with new terms and conditions and new lease contract numbers, applicable for either a new requirement or to replace an existing expiring lease.
- Succeeding leases are defined as non-competitive (sole-source) lease acquisitions secured to provide for the Government's continued occupancy of the current premises at the end of a lease term without a break in tenancy. They establish new terms and conditions and have new lease contract numbers. Such a lease would generally be used where acceptable new locations are not identified, or where acceptable locations are identified but a cost-benefit analysis indicates that award to an offeror other than the current Lessor will result in substantial relocation costs or duplication of costs to the Government, and the Government cannot expect to recover such costs through competition. Succeeding leases are discussed further in Chapter 5.
- Superseding leases are defined as new leases that replace existing leases prior to their
  expiration. The existing lease is terminated simultaneously, effective with the
  commencement of the superseding lease. The Government considers executing a
  superseding lease to replace an existing lease when the Government needs numerous or
  detailed modifications to a space that would cause complications or substantially change
  the existing lease, or where better terms are available in a market. They are procured
  following non-competitive sole-source procedures and have new lease contract numbers.
  Superseding leases are discussed further in Chapter 5.

This chapter describes the procedures, techniques, instructions, and guidelines governing the acquisition of new or replacing leased space. It explains when a new or replacing lease is advisable or required, as compared to succeeding or superseding leases, extensions, responses to holdovers, and other lease processes. Note that, whenever possible, leases with contract value at or below the simplified lease acquisition threshold (SLAT) should follow simplified procedures which are highlighted in Chapter 3, Simplified Lease Acquisition.

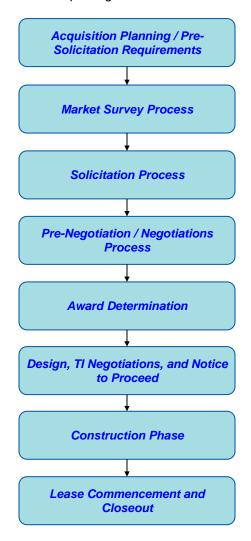
The space requirements addressed in Chapter 1, Requirements Development, must be completed or refined before starting the leasing process. However, a delineated area may require later revision based on the findings of the market survey.

Overview: The New or Replacing Lease Process



As the diagram below illustrates, the general process for a new or replacing lease involves eight major stages. This chapter discusses each one. It is important to understand that these stages are simplified labels of convenience for distinct groups of related activities. In actual practice, these steps are not perfectly separate and linear—it is not uncommon for some activities of one stage to extend into one or more subsequent stages and to require concurrent effort on several simultaneous responsibilities. (CTRL + click on a topic title in the diagram to go to that part of this chapter.)

New or Replacing Lease—Process View



#### Part 1: Acquisition Planning/Pre-Solicitation Requirements

1. Overview 🖑

# Part 1: Acquisition Planning/Pre-Solicitation Requirements

1. Overview	2.1-2
2. Lease Acquisition Models and Templates	2.1-3
a. Available Lease Models	2.1-3
b. Global Templates	2.1-4
3. System Requirements	2.1-4
4. Electronic Files	2.1-5
5. Components of Acquisition Planning	2.1-5
a. Acquisition Planning Defined	2.1-5
b. Acquisition Plan Development	2.1-6
c. Lease Term Strategy	2.1-10
d. Funding Considerations	2.1-10
e. Prospectus Requirement	2.1-11
f. Determining Source Selection Approach	2.1-12
g. Schedules	2.1-12
h. Approval	2.1-13

Part 1: Acquisition Planning/Pre-Solicitation Requirements



\$ 1. Overview

## 1. Overview

This part describes the elements of acquisition planning that establish the proper groundwork and strategy for a lease. It defines acquisition planning and identifies significant components and steps in the acquisition planning process, including the following:

- Developing the acquisition plan, with consideration for promoting full and open competition, or preparing justifications for other than full and open competition;
- Estimating project costs;
- Identifying funding issues, such as ascertaining customer funding and lease scoring;
- Preparing a lease prospectus as necessary;
- Determining the acquisition approach; and
- Managing the lease action in G-REX and REXUS.

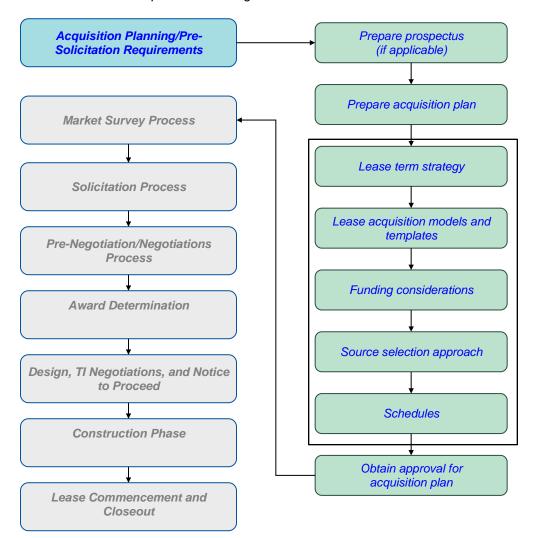
A number of the activities at this stage must proceed concurrently, rather than in a linear sequence. (Note that G-REX proceeds through these activities in sequence; however, in practice the Leasing Specialist may perform multiple tasks concurrently, and must ensure that this work is properly documented in a timely manner within G-REX.)

The following illustration shows the major steps in lease acquisition planning and pre-solicitation process. Each step label is linked to the section that discusses the topic.

Part 1: Acquisition Planning/Pre-Solicitation Requirements

2. Lease Acquisition Models and Templates

#### Acquisition Planning/Pre-Solicitation Process



## 2. Lease Acquisition Models and Templates

#### a. Available Lease Models

LAC 2012-02 issued Lease Reform's five lease acquisition "models," each of which used separate sets of templates tailored to the respective model:

- Standard—now incorporated into the Global (see below)
- Simplified—discussed in Chapter 3 of Leasing Desk Guide
- Streamlined—now incorporated into the Global (see below)

Part 1: Acquisition Planning/Pre-Solicitation Requirements



\$ 3. System Requirements

- Succeeding/Superseding—now incorporated into the Global (see below)
- On-Airport—discussed in Chapter 20 of Leasing Desk Guide

LAC 2014-02 issued the Warehouse model, discussed in Chapter 21; LAC 2015-04 issued Small Lease (3626) templates.

The Leasing Specialist selects which templates to use on the basis of various factors, such as the square footage or expected rental value, which may qualify the acquisition for a small or simplified lease; or the general nature or purpose of the space, which may qualify for a warehouse or on-airport lease.

## b. Global Templates

While having separate model-driven templates provided structure and consistency while working within a particular model, it did not allow for adequate flexibility in drafting Request for Lease Proposals (RLP) packages to meet the requirements of each individual lease acquisition. To address this, the Office of Leasing issued "Global" RLP and Lease templates, combining and incorporating the language and logic from three separate models (Standard, Streamlined, and Succeeding/Superseding) and also issued a Global GSA Form 1364 to be used in conjunction with the Global templates. The Global RLP and Lease templates incorporate the language and logic of the Standard, Streamlined, and Succeeding/Superseding models into one RLP and one lease form, allowing the Leasing Specialist greater flexibility to choose among paragraphs and sub-paragraphs in addressing such project differences as:

- Tenant Improvement (TI) pricing Do we have a biddable set of requirements allowing us to obtain turnkey Tenant Improvement (TI) pricing or will a TI Allowance be used instead?
- Method of award Are we communicating this as a competitive or a sole source procurement to the market?
- Stay in place For non-competitive actions, are we remaining at the current location (i.e., succeeding or superseding lease action)?
- Level of Build Out For succeeding lease actions, is minimal build out expected, or are extensive alterations required?
- Design Intent Drawings (DID) delivery method who is providing the DIDs and will we require a DID workshop?

While the Global templates allow for both turnkey and allowance-based TI pricing, this chapter will only address steps based on TI allowance pricing. For guidance on TI turnkey pricing, see LDG Chapter 4, "Streamlined Lease."

## 3. System Requirements

The use of G-REX is mandatory for managing all lease actions, including projects resulting in new leases, projects resulting in a modification to an existing lease, and lease administration actions.



Part 1: Acquisition Planning/Pre-Solicitation Requirements

4. Electronic Files ダ

From time to time new lease processes may be approved and implemented before G-REX can be updated to match. In such cases Leasing Specialists must gather and upload any documentation that the new processes require, even if G-REX does not yet specifically require those documents.

The G-REX system breaks the leasing process down into seven phases. The processes under each phase require the Leasing Specialist or Lease Contracting Officer to perform certain tasks in G-REX, some of which require updating REXUS. All lease documentation must be uploaded or scanned in G-REX for easy review and reference.

## 4. Electronic Files

Per Leasing Alert entitled "Storage, Handling, and Disposal of Lease Documents and Lease Files," all hard copy records, such as contract case files, can be scanned and managed electronically and the electronic copy can serve as the official record. In essence, all lease file documentation, forms, submittals, etc. as referenced throughout this Desk Guide can be filed in electronic format in lieu of paper records. Note that the documents must be stored and maintained in a generally accessible format (such as in a portable document format (PDF) which displays a visible image of all original document signatures and adequately protects the document from alteration. The electronic file must contain all correspondence records, including letters and emails, as well as documentation of telephone conversations, meetings, etc. See leasing alert for additional details.

## 5. Components of Acquisition Planning

## a. Acquisition Planning Defined

In general terms, acquisition planning is the process of coordinating the activities of people involved in acquiring an interest in real estate to make the acquisition timely and cost-effective. It includes developing the overall strategy for managing the acquisition. It may also address how to dispose of an asset when it is no longer needed.

#### **Applicable Laws and Regulations**

The core components of acquisition planning are defined in the Federal Acquisition Regulation (FAR). Though the FAR generally does not apply to leasing, GSA has adopted several components of the FAR based on statutory requirements or as a matter of policy identified in the General Services Acquisition Regulation (GSAR) Part 570.

#### **Acquisition Planning for PBS Leasing**

In the context of PBS leasing, acquisition planning entails considerations such as what to acquire (the type and amount of space), how to acquire it (lowest cost technically acceptable or best-value tradeoff), the type of acquisition (full and open competition or sole source), the type of lease action to employ, and when the space must be available.

Early planning is critical. At a minimum, lease portfolio planning for new/replacing lease must begin 36 months before the lease expires, and at least 60 months for prospectus leases.

Part 1: Acquisition Planning/Pre-Solicitation Requirements



\$ 5. Components of Acquisition Planning

Acquisition planning activities must begin as soon as a client agency's need is identified, in order to determine the most advantageous acquisition approach.

#### **Leveraging Resources**

One of the first decisions to be made in the planning process is whether to use traditional procurement methods as outlined in this chapter or procure space using the Automated Advanced Acquisition Program (AAAP). AAAP is a multiple-award procurement process and an online application that provides building owners with the opportunity to offer space for lease in advance of an identified specific agency requirement. Refer to LAC 2014-01 for additional guidance regarding AAAP.

For traditional lease procurements, project teams may rely solely on in-house resources or use broker contractors to provide additional leasing capacity and supplement the work of the Leasing Specialist and Lease Contracting Officer.

### b. Acquisition Plan Development

All leases, regardless of dollar value, require acquisition planning. Leases over the Simplified Lease Acquisition Threshold (SLAT), explained in Chapter 3, must have a written acquisition plan approved at the appropriate level (see table "Thresholds and Approving Officials"). See Chapter 3 for acquisition planning for SLAT leases. Documents produced during acquisition plan development must be included in the lease file. The acquisition plan must be finalized before issuing the Request for Lease Proposals (RLP). As with other internal GSA documents, the acquisition plan may be signed digitally.

The Office of Leasing created acquisition plan templates to be used in lieu of the Acquisition Planning Wizard (APW) prescribed under GSAM Part 507, Acquisition Planning. The templates described below have been designed to include all necessary acquisition plan elements in the APW and expanded to include elements of global project management and economic catalyst initiatives. Where a particular element is not applicable, state so in the acquisition plan.

The following table provides dollar value thresholds and responsible official levels for approving and waiving written acquisition plans.

#### Thresholds and Approving Officials

Threshold (Including All Options)	Approving Official
Below the SLAT defined in GSAM Part 570.102	Lease Contracting Officer
From SLAT up to and including \$5.5 million	One level above Lease Contracting Officer
Over \$5.5 million up to and including \$20 million	Contracting Director/Real Estate Director
Over \$20 million up to and including \$50 million	Regional Commissioner or Deputy Regional Commissioner
Over \$50 million	Head of Contracting Activity (HCA)*
Any dollar value acquisition that is complex, critical to agency strategic objectives and mission, highly visible, or politically sensitive	Head of Contracting Activity (HCA)*
Any prospectus-level lease or prospectus-level lease alterations project (GSAM 507.105(c)(2)(d))	Head of Contracting Activity (HCA)*

<sup>\*</sup> In PBS regions, the HCA is the Regional Commissioner.





Part 1: Acquisition Planning/Pre-Solicitation Requirements

5. Components of Acquisition Planning

In addition, legal review of acquisition plans is required for:

- all actions over SLAT where Best Value Tradeoff Source Selection is anticipated, or
- all actions over \$20 Million aggregate value.

The acquisition plan is **not** meant to be a progressive document that requires updating for every change in schedule. However, the plan must be revised and reapproved under the following circumstances:

- There is a material change in acquisition strategy. Examples include:
  - Change from a lowest price technically acceptable procurement to a bestvalue tradeoff
  - Change from a full and open procurement to other than full and open

#### **Average or Aggregate Rent?**

Note that in the preceding Thresholds and Approving Officials table, the SLAT and prospectus thresholds refer to the *net average annual rent* for the term of the lease (including option periods and excluding the cost of services), while thresholds for leases above the SLAT and less than prospectus-level are the total contract value (including option periods).

- Change from other than full and open procurement to full and open
- Significant expansion or contraction of delineated area; or
- There is a change that affects total contract value, and therefore adds additional concurrences and a higher level of approval. (This would require new approval, but not necessarily a revision to other parts of the plan.)

#### **Project Management Plan (PMP)**

In keeping with the PBS Project Management practices, PBS acquisition planning incorporates elements of a PMP, allowing one document to serve as both the PMP and the acquisition plan. The combined template streamlines the process by eliminating the need to prepare two separate documents. The Combined Project Management/Acquisition Plan contains the elements identified in FAR Part 7, as cross-referenced in GSAM Part 507, and serves as the PMP when the same realty professional is responsible for preparing both documents. It is not intended to transfer responsibility for preparing the acquisition plan to project managers, nor is it intended to dictate or prescribe format for PMPs in general. For larger, more complex projects, the PMP remains as a separate document, and the project manager has the option of using either the Suite of Planning Tools (SOPT) or the Leasing PMP template. For prospectus-level projects or lease projects considered to be "high risk," it is required that a Federal Acquisition Certification for Program and Project Managers (FAC-P/PM) Level 3 project manager be assigned, and that project manager must use SOPT to generate the PMP.

#### **Acquisition Plan Template**

To facilitate compliance, during the Requirements Development Phase the G-REX Lease Process prompts the Leasing Specialist to gather and load compliance materials and requirements information relating to the acquisition including the selection of the lease model to use for the procurement. The purpose of inputs in this phase is two-fold:

#### Part 1: Acquisition Planning/Pre-Solicitation Requirements



♥ 5. Components of Acquisition Planning

- To ensure that all Lease File Checklist documentation is captured in the system, and
- To build and generate the Acquisition Plan/PMP for the project.

G-REX will generate this plan using information entered for the project. Note that the plan generated by G-REX may be missing certain information, such as economic catalyst compliance. Therefore, Leasing Specialists may have to manually edit the generated document. Alternatively, Leasing Specialists may use the template posted on the Office of Leasing Google site and upload the completed, signed plan to G-REX manually.

The requirement for a written acquisition plan may be waived in cases of unusual and compelling urgency. The Regional Administrator or a designee is also authorized to waive the requirement if he or she determines the region has a mechanism in place that includes the minimum elements. (The region may determine the type of mechanism.) REXUS does not qualify, as it does not provide the level of detail required.

When the requirement for a written plan is waived, an oral acquisition plan must be prepared and approved. A written summary of the oral plan must be prepared, either before or after award, including the name of the approving official and the nature of the urgency that required a waiver.

For leases whose values are at or below the SLAT, an acquisition plan template is available for capturing the essential elements of the oral acquisition plan (see the GSA InSite portal or Appendix C).

#### **Full and Open Competition**

Full and open competition means that all responsible sources are permitted to compete. The Leasing Specialist must promote full and open competition in leasing, except under certain circumstances as outlined under FAR 6.302 in accordance with the Competition in Contracting Act (CICA) (41 U.S.C. 3304, et seq.) and addressed as applicable elsewhere in the Leasing Desk Guide.

In particular, CICA requirements include:

- Following advertising and publicizing practices necessary to promote competition for the location, type, and amount of space, and
- Using restrictive provisions or conditions only to the extent necessary to satisfy the client agency's needs or as authorized by law.

The critical question for determining whether competitive procedures were used is whether all interested parties were given an opportunity to submit offers—that is, the procurement was known to the public, and requests for lease proposals were available to all interested parties. Therefore, be mindful that the requirements of CICA are met and <u>a procurement may be considered full and open</u> if <u>all</u> of the following are true:

the Government's intent to procure is made known to the public;

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<sup>&</sup>lt;sup>1</sup> GSA Order OGP 2800.1, Acquisition Planning



Part 1: Acquisition Planning/Pre-Solicitation Requirements

5. Components of Acquisition Planning

- the public is given sufficient information as to what the Government's needs are;
- a Request for Lease Proposals is provided to all parties that express an interest in the Government's requirements; and
- the Government invites all interested parties to compete, regardless of how many acceptable locations are identified or how many offers are received). Note that Chapter 5 on succeeding leases discusses the special scenario when the only acceptable location is the current building.

Therefore, a procurement may be considered full and open if full and open public notice and opportunity to express an interest were given, yet only one potential offeror receives a solicitation and/or only one offer is received, even if the only offer is from the existing Lessor. CICA does not require a Lease Contracting Officer to justify the actual response of the real estate market.

#### Other Than Full and Open Competition

In accordance with FAR Part 6, Lease Contracting Officers must not begin negotiations for a sole source contract or award any other contract without first providing for full and open competition. Leasing Specialists may proceed with a Justification for Other Than Full and Open Competition (Justification) if they do all of the following:

- Justify the use of such actions in writing in accordance with one of the exceptions listed under FAR 6.302.
  - Only one responsible source and no other supplies or services will satisfy agency requirements.
  - Unusual and compelling urgency (although this cannot be used where there is a lack of advanced planning from the agency)
  - ▶ Industrial mobilization; engineering, developmental, or research capability; or expert services

  - National security.
- Conduct market research and provide a description of efforts made to ensure that offers are solicited from as many potential sources as is practicable.
- Certify the accuracy and completeness of the Justification.
- Obtain the appropriate approvals. Approval levels increase based upon the total lease contract value, including all renewal options (see FAR 6.304, GSAM 502.1, and GSAM 506.)

#### **Looking Ahead**

Since pre-award legal review is required for all lease awards above SLAT which are based on Justifications Other than Full and Open (see Part 5), it is a best practice to obtain legal review of all Justifications over SLAT.

Part 1: Acquisition Planning/Pre-Solicitation Requirements



\$ 5. Components of Acquisition Planning

Note that a Justification, while part of the pre-solicitation phase, should not be prepared during acquisition planning. As noted above, Leasing Specialists must provide all interested parties the opportunity to express an interest in the Government's requirements.

#### Sole Source Justifications at or below SLAT

Non-competitive actions which do not exceed the SLAT do not require a formal OTFO; instead, the LCO must document the file, in writing, to explain the lack of competition. Since an OTFO is not required for actions at or below SLAT, additional signatures or approvals beyond the level of the LCO are not required.

For additional information regarding the content of Justifications, see Chapter 5 of this desk guide.

## Post-Award Publication of Justifications for Other Than Full and Open Competition

Redacted Justifications for Other Than Full and Open Competition (justifications) must be published in FedBizOpps, the Federal Business Opportunities website (www.fedbizopps.gov), within 14 days after lease award . See Part 5.5.f on Post-Award Notifications later in this chapter for further guidance.

### c. Lease Term Strategy

As outlined in the Leasing Alert entitled "Lease Term Strategy," GSA project teams should consider leveraging the Government's financial strength and its 20-year lease acquisition authority by entering into longer term leases, with long firm terms, where appropriate. This includes the use of renewal options to control the space beyond the 20 year statutory authority.

For all lease requirements, the Government should consider the benefits of favorable rental pricing associated with longer firm terms against the costs associated with the risk of the inability to backfill vacant Government-controlled space. In many instances, GSA has defaulted to a 10 year, 5 year firm lease strategy to allow the Government flexibility with its housing requirements, and to minimize the amount of vacant Government-controlled space since the Government can terminate the lease if it no longer needs the space. While the Government maintains flexibility with its housing requirements with such lease termination rights, GSA may be foregoing more favorable rental pricing in markets where there is a high potential for backfill of vacant Government-controlled space.

## d. Funding Considerations

Although these actions must begin during the Requirements Development phase, confirming funds is a critical part of solid project management during acquisition planning.

## **Customer Funding: Does the Customer Have Money?**

As discussed under Chapter 1, Requirements
Development, the requesting agency must confirm
funding availability with an authorized agency official's
signature on the initial draft Occupancy Agreement (OA)
before GSA can begin procurement activities. The OA
needs to reflect the best estimates based on the most
realistic market data available at the time. Note that

#### **Personal versus Real Property**

LCO warrants are limited to the acquisition of real property only; therefore, agencies must budget separately for the procurement of personal property items such as refrigerators.





Part 1: Acquisition Planning/Pre-Solicitation Requirements

5. Components of Acquisition Planning

additional funds may be required in the form of a Reimbursable Work Authorization (RWA) for tenant improvements expected to exceed the agency's allowance. See Part 5 of this chapter, paragraph 3.e, "Obtaining and Amending RWAs," for additional guidance.

Leasing Specialists should understand that this initial estimate must be refined continually during the project. Whenever Leasing Specialists obtain better benchmark data, the REXUS project and OA need to be updated to reflect this information (e.g., prior to award, when TI negotiations are complete, and at final occupancy).

#### Scoring: Is This an Operating or Capital Lease?

This step produces documentation for Lease File Tab I under Initial Scoring Worksheets or Scoring Memorandum.

Every lease action must be evaluated against the budget scoring criteria detailed in Appendix B of OMB Circular A-11, Criteria and Scoring Ramifications for Operating and Capital Leases. This evaluation determines whether a lease should be treated as an operating lease (allows GSA to budget for annual lease payments) or capital lease (requires GSA to budget up front all capital expenditures) for budget scorekeeping purposes. If any one of the criteria is not met, the lease risks being scored as a capital lease. Capital leases are almost always unacceptable because they require the Government to budget the entire expense of the lease contract in the first year of the lease term. Only in extremely rare circumstances, and only

#### The 20-Year Limit

GSA is authorized to enter into lease agreements for terms of up to 20 years in a building (or improvement) which is in existence or being erected (40 U.S.C. 585(a)). Options do not count against this limit, as long as, at the time of exercising the option, the remaining term left on the lease does not exceed 20 years.

after additional approvals are obtained from Portfolio, may GSA enter into a capital lease.

Lease Contracting Officers and designated employees in each regional Office of Real Property Asset Management perform all scoring evaluations and make the determination that a lease is either an operating or a capital lease. See Appendix F, Determination of Operating or Capital Lease Classification for Budget Scoring, for guidance for determining the appropriate budget scorekeeping treatment, either as an operating or capital lease.

## e. Prospectus Requirement

This step produces documentation for Lease File Tab 1 under Prospectus Submission/Approval (House and Senate Resolutions).

A prospectus is a summary of the proposed lease action that must be submitted to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives for proposed leases with a net annual rent above a certain dollar threshold. Leasing Specialists must consult with the Regional Office of Real Property Asset Management for the applicable prospectus threshold as the threshold is adjusted annually. Please refer to Chapter 11, Prospectus-Level Leases, for a detailed guidance on prospectuses and leases.

Net Rent: To determine net rent, take the proposed full service rent, including real estate taxes, amortized tenant improvements, as well as the costs of any GSA lump sum payments and then subtract out only the operating expenses paid directly to the Lessor.

Part 1: Acquisition Planning/Pre-Solicitation Requirements



\$ 5. Components of Acquisition Planning

As a matter of policy, Leasing Specialists may advertise for a prospectus-level requirement only after the prospectus has cleared OMB and has been submitted by GSA to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. Broad market surveys not tied to a specific project can be used to establish the overall availability of space or sites. Such surveys might be instrumental in developing a prospectus and may be undertaken during requirements development.

## f. Determining Source Selection Approach

This step produces documentation for Lease File Tab 2 under Source Selection: Plan (Signed) and Related Correspondence.

The first source selection decision the Lease Contracting Officer must make is whether the award will be based only on price (i.e., lowest price technically acceptable—LPTA), or whether price will be one of several factors that allows the Government to accept proposals other than just the lowest priced one. (i.e., best-value tradeoff). This determination must be noted in the Acquisition Plan. Discussions with client agencies will help determine the most advantageous source selection approach.

If this is a best-value tradeoff award, the Lease Contracting Officer in consultation with the client agency, must determine what technical award factors will be used and their relative ranking/weights (past performance must be one of the factors, in addition to price). Further, the Lease Contracting Officer must determine the relative importance of the overall technical proposal to price (e.g., substantially greater than, approximately equal to, or substantially less than).

The source selection plan may be a simple, abbreviated plan for a go/no-go decision to award the lease to the offeror with the LPTA offer; or it may be a more thoroughly documented plan to follow a best-value tradeoff process, if it is in the best interest of the Government to consider awarding the lease to an offeror other than the lowest priced offer or other than the highest technically rated offer.

For best-value tradeoff procurements over SLAT, the LCO must obtain legal review and approval of all documents related to the source selection process (e.g., Acquisition Plan, Source Selection Plan, solicitation, Source Selection Reports, Source Selection Authority Decision, Price Negotiation Memorandum, etc.) as outlined under GSA Order ADM 5000.4B.

See Chapter 13, Source Selection, as well as FAR 15.101.1 and 15.101.2 under "Subpart 15.1—Source Selection Processes and Techniques," at <a href="http://www.acquisition.gov/far/html/Subpart%2015\_1.html">http://www.acquisition.gov/far/html/Subpart%2015\_1.html</a>.

## g. Schedules

The schedule is a critical component of the acquisition plan and should reflect the PBS milestones described in the Introduction Chapter of the Leasing Desk Guide. G-REX tailors these milestones according to the selected Lease Model.

During the Requirements Development phase, G-REX tasks the Leasing Specialist to "Set Baselines." These dates are the estimated completion dates for each of the tasks associated with acquisition and pre-occupancy. Completing this baseline schedule populates the system-generated Combined Project Management/Acquisition Plan and allows the Leasing Specialist to





Part 1: Acquisition Planning/Pre-Solicitation Requirements

5. Components of Acquisition Planning

generate the Customer Milestone Schedule, a subset of the Project Milestone Schedule early, in the project lifecycle.

Baseline project schedule dates are static in order for Leasing Specialists to determine how well they are meeting the anticipated schedule. When developing a baseline project schedule, it is important to use project and market knowledge to provide the most accurate project schedule. At any time during the process, Leasing Specialists may update their estimated dates and view the baseline schedule alongside their revisions.

The Customer Milestone Schedule is important, as it allows PBS to determine the effectiveness of the lease process in meeting estimated timelines, communicating with customers, and planning budgets. In some instances dates feed back to REXUS. The estimated dates must be kept updated, similar to updating REXUS with rate and other information. It is essential that this schedule is accurate, since client agencies rely upon it when planning purchases related to occupancy of the space (e.g., furniture and telephone systems, specialized equipment, and relocation services).

## h. Approval

After discussions and appropriate plan of action has been agreed upon, an acquisition plan must be written by the Leasing Specialist and approved at the appropriate level as shown in the "Thresholds and Approving Officials" table in this section.

1. Overview 🖑

## **Part 2: Market Survey Process**

1. Overview	2.2-1
2. Importance of a Market Survey	2.2-3
3. Prepare for Market Survey	2.2-4
a. Preparation	2.2-4
b. Reviewing and Confirming the Delineated Area	2.2-4
c. Advertising and Identification of Potential Competition Sources	2.2-5
d. Evaluating and Recording Potential Sources	2.2-6
4. Conducting the Market Survey	2.2-7
a. Survey Participants	2.2-7
b. What to Look For and Ask About	2.2-8
5. Market Survey Report Requirements	2.2-9
a. Description of project	2.2-9
b. Authority	2.2-9
c. Background	2.2-10
d. Market Survey	2.2-10
e. Conclusion/Summary	2.2-11
f. Prepared By and Approved By	2.2-11
6. Post-Survey	2.2-11
a. Response to Those Who May Not Meet the Requirements	2.2-11
b. Central Office Review for Lease Construction Below Prospectus	2.2-11
7. Historic Preservation, Floodplain, Wetlands, and Environmental Complian	
Checks	2.2-12

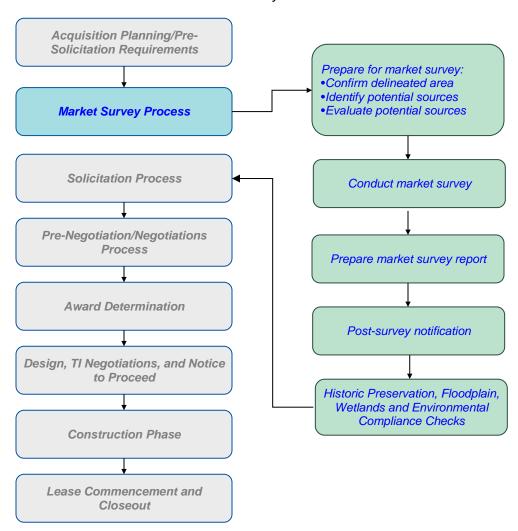
## 1. Overview

Part 2 reviews the key steps in the market survey process. As the illustration below indicates, this process ultimately identifies properties that meet the basic requirements of the RLP.. This entire



process is documented in a Market Survey Report. Each step label is linked to the section that discusses the topic.

#### Market Survey Process



2. Importance of a Market Survey

## 2. Importance of a Market Survey

Understanding the market involves both general market research and formal market surveys.

Market research, as opposed to market survey, is any methodical effort to gather information about the market or customers, in order to gain insight or improve business decisions. It may involve consulting commercial databases, real estate brokers, local officials, and other sources of expertise. It may or may not involve directly contacting commercial Lessors. Market research generates useful information for setting negotiation objectives by helping to identify ranges of fair and reasonable costs for the type of space desired. See "Market Knowledge" in the discussion of negotiations.

GSAM 570.301 requires that a market survey be conducted to identify potential locations capable of meeting a space requirement for the Government. The term "market survey" refers to the process of gathering information about and physically touring specific properties in the market, usually accompanied by an agency representative, to determine whether suitable property is competitively available. This is a critical step in the leasing process. Market surveys must be used to identify potential properties to lease and determine how best to satisfy the lease requirement in the most competitive manner. The characteristics of each building inspected for a market survey must be documented on GSA Form 2991, Lease Market Survey for Existing Building (see the GSA InSite portal or Appendix C for a link to this form).

The background information developed in a comprehensive market survey will establish the foundation for a successful procurement. It will help the Leasing Specialist thoroughly understand what kind of space is available in the market area and identify the asking rents for that location. In turn, this information will provide a solid basis for lease negotiations.

Ranges of market rental rates based on information obtained during the survey, from market research, or from other available sources are used to develop the estimated rental range and negotiation objectives.

The recommended practice is to conduct surveys in person; the surveys should reveal rental costs typical of the area as well as cost comparisons for major or similar buildings at various floor levels.

The Leasing Specialist is responsible for directing and overseeing market surveys, though if one of the national broker services contracts are used, the broker will provide these services. The outcome of the market survey process is a list of buildings that meet or have the potential to meet the general requirements of the RLP.

Since this is one of the few times where the Leasing Specialist and the agency meet in person, the market survey presents an excellent opportunity to build a strong working relationship. It is the phase that provides the agency a clear "window" into the procurement. Finally, it is often the only time that GSA and the client agency will actually see the space prior to award.

⇔ 3. Prepare for Market Survey



## 3. Prepare for Market Survey

## a. Preparation

Leasing Specialists collect market survey information on the availability of space from multiple sources, such as responses to FedBizOpps and newspaper advertisements, circulars, and commercial on-line listings; consultation with brokers, realtors, building owners, and other Government officials; the local economic development authority; Chamber of Commerce; regional listing files; and independent observation of buildings by Leasing Specialists and representatives of the local client agency.

The goal of the market survey process is to identify as many acceptable sources as possible. Use of competitive procedures (placing an ad, surveying the market, etc.) will not ensure a viable award; the Lease Contracting Officer has an affirmative duty to question the nature of a requirement that results in few potential locations and to take appropriate action to facilitate future competition. If there are few expressions of interest in response to the FedBizOpps advertisement or other publications, Lease Contracting Officers must concentrate on finding space from the sources listed above. In the event that adequate competition is not identified, the Leasing Specialists must work with the client agency to expand or revise the delineated area where possible (or document the file as to why expanding or revising the delineated area is not possible), or consider revising the requirements, and then proceed to re-survey the market as appropriate.

All locations that are proposed in response to advertising that are within the delineated area and meet the minimum requirements (including those for quality and availability) must be surveyed, including the current location, if applicable.

The Leasing Specialist should schedule appointments for walkthroughs of each of the potential offerors' spaces. Leasing Specialist should allow time for doing further canvassing of the delineated area to determine whether other potential buildings are available that could satisfy the agency needs in addition to those already identified by local brokers or Lessors.

## b. Reviewing and Confirming the Delineated Area

This step produces documentation for Lease File Tab 1 under Delineated Area, Rural Development Act Compliance, and Justification of Delineated Area Outside CBA.

The delineated area is defined by the specific boundary within which space will be obtained to satisfy an agency space requirement. Buildings located outside the delineated area are ineligible for consideration. The requiring agency identifies the delineated area based on its mission and program requirements. The Leasing Specialist will review and confirm the delineated area during the requirements development process (see Chapter 1). GSA approves the final delineated area after confirming that it complies with all applicable laws, regulations, and Executive orders, including the Rural Development Act of 1972, as amended, the Competition in Contracting Act, as amended, 41 U.S.C. 252–266, and Executive Orders 12072 and 13693.

In accordance with the Competition in Contracting Act, GSA may consider whether restricting the delineated area to the CBA will provide for adequate competition when acquiring leased space. Where it is determined that an acquisition should not be restricted to the CBA, GSA may expand



Part 2: Market Survey Process

3. Prepare for Market Survey

the delineated area in consultation with the requesting agency and local officials. The CBA must continue to be included in such an expanded area.

As more fully described in Chapter 1, Requirements Development, avoid vague boundaries, such as a radius expressed in miles or blocks. Buildings that have frontage on the boundary streets are deemed to be within the delineated area.

#### **Energy Star**

Project teams should take into consideration the availability of Energy Star Buildings in the proposed delineated area and how this may affect the level of competition in the procurement.

## c. Advertising and Identification of Potential Competition Sources

#### **Thresholds**

If a proposed lease is estimated to exceed 10,000 ANSI/BOMA Office Area (ABOA) square feet, then the Lease Contracting Officer must publicize the proposed acquisition in FedBizOpps.

However, the Lease Contracting Officer may publicize proposed lease acquisitions of any dollar value or square footage in FedBizOpps or local newspapers if, in the opinion of the Lease Contracting Officer, doing so may promote competition.

For leasehold acquisitions where the request for lease proposals requires the construction of a new building on a preselected site, the Lease Contracting Officer, in accordance with the timeframes established in FAR 5.203, must publicize the proposed acquisition in FedBizOpps.gov regardless of size or value.

#### **Threshold**

The statutory threshold for advertising is \$25,000 total contract value, but the Small Business Administration and the Office of Federal Procurement Policy have approved a threshold of 10,000 ABOA SF for leases.

#### FedBizOpps Template

GSA has created a template that should be used for all advertisements in order to communicate our requirements to the market in a consistent and standardized format. See the GSA InSite portal or Appendix C for a link to a standardized FedBizOpps advertisement template. The document can be completed, and then text can be copied and pasted directly into the text field on the FedBizOpps web site to summarize all of the Government's requirements.

#### **Publicizing/Advertising Time**

FedBizOpps postings must allow a reasonable time for the market to become aware of, and

respond to, the Government's need for space. GSAM 570.106(f) requires a minimum notice of at least 3 calendar days before issuance of the RLP; however, realistically, the posting should occur at the beginning of the market survey process, which takes place well before issuance of the RLP. Note that, as required under GSAM 570.106(g), the LCO must provide offerors no less than 20 calendar days between issuing the RLP and the deadline for receipt of initial offers

#### **Notify Existing Lessor**

The existing Lessor must be notified about the FedBizOpps advertisement, because Lessors do not often check FedBizOpps regarding their properties.

Part 2: Market Survey Process

\$\text{\$\text{\$}}\$ 3. Prepare for Market Survey



(See Part 3 of this chapter).

If advertising for a SLAT procurement (see Chapter 3), consider the individual acquisition and establish a reasonable response time.

In cases of unusual and compelling urgency (see Chapter 12 on emergency leasing), provide as much time as reasonably possible under the circumstances and document the urgency of the situation in the contract file.

If the delineated area, square footage, or major building features significantly change after the initial advertisement, the Leasing Specialist must re-advertise.

### d. Evaluating and Recording Potential Sources

This step produces documentation for Lease File Tab 2 under Procurement Summary/FedBizOpps Advertisement and Responses.

#### **Reviewing Responses**

Leasing Specialists must document the responses to the advertisement in the lease file. The responses will provide a general sense of the market. They will help clarify whether the respondents meet the basic requirements, in terms of the delineated area, required square footage, and other requirements. The responses will also help establish whether the market has the capability to support the lease need.

#### Other Sources

In addition to identifying prospective sites from advertising responses, the Leasing Specialist should check market information available in electronic databases, such as LoopNet (at <a href="http://www.loopnet.com/">http://www.loopnet.com/</a>) and CoStar Realty Information, Inc. (at <a href="http://www.costar.com/">http://www.costar.com/</a>). Other valuable sources are economic development commissions or other similar community organizations, as well as real estate brokers.

Each expression of interest should be identified by name, contact information, and date of contact.

Once all respondents and prospective locations are identified, the Leasing Specialist or Lease Contracting Officer must determine which buildings will be surveyed based on the delineated area and other minimum requirements of the RLP, such as availability and square footage. Doing this step now will maximize the use of time during the subsequent physical market survey.

#### **Due Diligence for Current Location**

In instances where there is a possibility of a succeeding or superseding lease, Leasing Specialists should conduct appropriate due diligence research of existing space conditions, including:

- Checking IRIS database for open fire and life safety deficiencies
- Contacting the LAM for inspection reports, past performance information, etc.

Refer to Leasing Desk Guide Chapter 5, Succeeding Lease, Superseding Lease, for additional guidance.

4. Conducting the Market Survey

## 4. Conducting the Market Survey

As part of the market survey process, the Leasing Specialist or broker contractor should physically inspect each property as appropriate (building and/or site) to determine whether it meets or is capable of meeting the requirements of the RLP.

The Leasing Specialist or broker contractor must arrange for the physical market survey. This involves, among other things, identifying the actual sites to be toured; establishing schedules and agendas; determining who will participate; and conducting preparatory discussions with client agencies to set expectations for the survey (size of group, who is conducting the survey, roles and responsibilities, and so on). Note that broker contractor may ride as [passengers in a Government Owned Vehicle (GOV), if on official business. GSA personnel should not be riding as passengers in broker's vehicles.

The current Lessor must be notified of the acquisition, even if the current location is incapable of meeting the current minimum requirements (for example, the agency has outgrown the space and not enough expansion space exists, or agency mission requirements have changed).

The characteristics of each building inspected for a market survey must be documented on Form 2991, Lease Market Survey for Existing Building (available at the GSA InSite portal or in Appendix C). If touring sites, bring a land survey form. The land market survey is required for all new lease construction projects and new construction proposed by the market in response to the advertisement.

## a. Survey Participants

#### **Who Should Participate?**

The Leasing Specialist, Lease Contracting Officer, or Broker Contractor must physically inspect each property as appropriate (building, site, or both) to note whether it meets or can meet the requirements of the RLP and invite all relevant parties to attend, including the project manager, tenant agency representatives, facilities management and services representative (such as the

Lease Administration Manager, or LAM), and a representative of the Federal Protective Service. For projects using the Broker Contractor, Leasing Specialists or Lease Contracting Officers may also choose to attend the market survey.

Other potential invitees include space planners, engineers (including fire protection engineers), and architects. However, the need to include all relevant parties must be weighed with the practicalities of conducting an efficient building tour with a manageable number of attendees. Those attending should be limited to the "decision-makers," especially for the client agency, who must be authorized to commit the agency by signing the completed market survey forms.

## If Sending Out Forms Before Site Survey

It is appropriate to send the market survey form for completion to all potential offerors before the actual physical site survey. Potential offerors are not required to return the form or complete it in its entirety. Therefore, during the building tour, Leasing Specialists should fill out missing information as appropriate.

Prior to the market survey, the Leasing Specialist should confirm that any individual showing property is authorized to do so via written authorization from the building owner.

Part 2: Market Survey Process

4. Conducting the Market Survey



#### **Preserving Procurement Integrity**

Procurement regulations prohibit divulging acquisition information to a potential offeror that is not provided to all potential offerors at the same time. During the market survey, the Leasing Specialist may discuss the characteristics of a specific property and its potential to meet the Government's requirement with that property's broker/owner/developer but may not divulge information about other properties being surveyed or any other aspect of the procurement.

Before conducting the survey, the Leasing Specialist or broker contractor conducting the survey must remind all participants of these requirements for procurement integrity. A non-disclosure form must be signed by everyone who attends the market survey or has access to the procurement documentation. If a form is already on file for someone for a particular procurement, then that person need not sign an additional form each time he or she meets or attends a different market survey. However, if someone new goes on a subsequent market survey, a signed form must be obtained from that person. Note also that the number or identity of offerors participating in the procurement may not be disclosed at any time before award without consultation with the Office of Regional Counsel.

#### b. What to Look For and Ask About

The survey must examine the individual locations in terms of their potential to meet general requirements that are common to all lease acquisitions, as well as those that are unique to the client agency.

In conducting a market survey, the Leasing Specialist must not focus too heavily on the details of the interior finishes, as these can be easily changed. Instead, the Leasing Specialist must note more permanent features of the building, such as systems, building core, floorplate, fire exits, and accessibility.

#### Get on the Same Page

Before touring buildings, the market survey attendees should review the agency specific go/no-go criteria to use in evaluating the properties.

The Leasing Specialist confirms that the appropriate market survey form is filled out in its entirety, capturing information such as:

- Amount of available space and floor location;
- Whether a site has a current Energy Star label;
- Re-confirmation that the site is within the delineated area;
- Accessibility for the disabled or handicapped (entrances, toilet rooms, drinking fountains, etc.);
- Fire and life safety requirements (sprinklers, means of egress, fire exits, etc.);
- Proximity to public transportation, parking, and amenities:
- Conformance with project specific go/no-go criteria; and
- Asking rental rate information. (Note that while building owners and agents may be reluctant to provide this without seeing the RLP, the Leasing Specialist must probe to



Part 2: Market Survey Process

5. Market Survey Report Requirements &

obtain as much market rate data as possible, including the cost of services, whether step rents or escalations are standard practice, how much tenant improvement allowance is included, and so on. This information is crucial for preparing the negotiation objectives described under Part 4, Pre-Negotiation/Negotiation Process, in this chapter.)

For each property toured, the Leasing Specialist must note whether the building meets (or can be altered to meet) the minimum requirements of the client agency. For locations that do not meet the requirements, the Leasing Specialist must also ask whether the owner is willing and able to correct the deficiencies and bring the location into compliance. If the building cannot meet minimum requirements, or is not willing to correct the deficiencies, the Leasing Specialist must adequately document the reasons on the survey form.

#### **Client Agency Concurrence**

It is crucial that GSA obtain agency concurrence on the market survey. This concurrence can be documented on the survey form itself, on the market survey report, or in separate correspondence. If the customer disagrees with the Lease Contracting Officer's preliminary decisions regarding whether a property meets or is capable of meeting the requirements of the agency, the Lease Contracting Officer and the agency representative must reach agreement regarding the acceptability of the property. Proceeding without agreement puts the procurement at risk, should the agency reject the offer of space at the conclusion of negotiations.

## 5. Market Survey Report Requirements

This step produces documentation for Lease File Tab 2 under Market Survey, Market Survey Report, and Agency Concurrence.

The Leasing Specialist is responsible for completing and filing the market survey report for lease procurements. If it is a broker project, the broker is responsible for completing both Form 2991, Lease Market Survey for Existing Building (available at the GSA InSite portal or in Appendix C), and the market survey report. The market survey report, including phone survey results, must address the following areas:

## a. Description of project

State details of the project, such as:

- Type of action (new or new/replacing, etc.);
- Agency; and
- Delineated area (including a map showing the building location).

## b. Authority

State GSA's authority to enter into leases on behalf of the Federal Government: 40 U.S.C. 585.

5. Market Survey Report Requirements



### c. Background

- Include current lease information, if applicable.
  - o Contract number, square footage, expiration date, etc.
- Identify steps taken to identify sources (where/when advertisement ran and/or how many brokers were contacted, etc.).
- State the date that the agency requirement was received.
- Reference unique requirements or go/no-go issues (such as column spacing—minimum or maximum, setbacks, public transportation, specific floor requirement).

## d. Market Survey

- Include general information about the survey.
- List the attendees (with appropriate titles), the date, and the number of buildings.
- Name buildings that gave us an expression of interest but were not included on the market survey and discuss the reason.
- For each building/site toured indicate:
  - o Agent or owner information.
  - Name, title, company name, address, phone number.
  - Estimated rental rate and operating cost information.
  - Any rental concessions such as free TI, free space, free rent, free parking, or others.
  - Information in the description of each building: Available square footage and floors
    Building age and condition
    Fire safety features (sprinklers, exits)
    Accessibility compliance
    Application of special requirements.
- Describe neighborhood characteristics, including any features bearing on the suitability of the property, such as availability of public transportation or neighborhood amenities.
- Indicate whether the land market survey form was used.
- Include photographs of each property.

### e. Conclusion/Summary

- Identify the buildings that generally meet the requirements of the agency and those that do not appear to meet the requirements. A summary table of buildings toured is helpful.
- Identify full service (gross) asking rents in comparable, surrounding buildings, if known.
- Include other available market data.
- Include a chart if desired.
- Assess the level of expected competition.
- Include construction schedule, if building is under construction.

### f. Prepared By and Approved By

Include a line at the end of the market survey for the signature of the Leasing Specialist and/or broker (if applicable) and the Lease Contracting Officer.

## 6. Post-Survey

## a. Response to Those Who May Not Meet the Requirements

The Leasing Specialist or Lease Contracting Officer must send a letter or email to prospective offerors after the market survey to address expressions of interest when the property does not or cannot meet the requirements of the agency. The letter must address, at a minimum, areas where the building owner agrees that they are incapable of meeting RLP minimum requirements, and other areas identified during the market survey that do not appear to meet or be capable of meeting the requirements. Regardless of the Lease Contracting Officer's determination, anyone who requests an RLP, even if not surveyed, must be provided a copy and allowed to submit an offer. If an offer is received that does not meet a stated minimum requirement, the Lease Contracting Officer may, after evaluation, determine it to be technically unacceptable and eliminate it from the competition during the procurement.

## b. Central Office Review for Lease Construction Below Prospectus

If the market survey indicates the possibility of soliciting offers for lease construction, regions must submit projects to the Office of Leasing and the Office of Real Property Asset Management for review and approval, prior to issuing a solicitation. This review, which is more thoroughly described under LDG Chapter 14, Lease Construction, is required to address stakeholder concerns regarding the cost of lease construction.



57. Historic Preservation, Floodplain, Wetlands, and Environmental Compliance Checks

# 7. Historic Preservation, Floodplain, Wetlands, and Environmental Compliance Checks

Properties responding to advertisements and market survey information must be reviewed for compliance checks for historic preservation, floodplains and wetlands, and National Environmental Policy Act. The following is a summary of the referenced guidelines.

#### **Historic Preservation Compliance Check**

This step produces documentation for Lease File Tab 2 under Historic Preservation Compliance Check.

Section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470f, requires Federal agencies to consider the effects of their actions, including real estate actions such as leasing, design, and construction, on historic properties before expending any federal funds on the undertaking. Full regulations governing the Section 106 consultation process are available at 36 CFR part 800. Lease Contracting Officers may direct offerors that have questions regarding the consultation process to the Advisory Council on Historic Preservation's *Citizen's Guide to Section 106 Review*, which is available at http://www.achp.gov/docs/CitizenGuide.pdf.

The Section 106 process consists of four steps; initiation, identification, assessment, and resolution where the Area of Potential Effects (APE) could be affected by the leasing action. GSA's Regional Historic Preservation Officer (RHPO) is responsible for coordinating the consultation process.

In the case of leasing actions, potentially affected historic properties could include resources both above grade (buildings and historic districts) and below grade (archeological sites). Any leasing action that involves ground disturbance, whether new construction, an alteration to an existing leased building for an addition or other ground disturbing activity involving excavation, has the potential to affect below-grade historic properties.

The Section 106 consultation must be completed before the due date for final proposal revision so that offerors can take into account the associated costs of mitigation, if any, in their proposals. The Section 106 consultation steps of initiation, identification, assessment, and resolution are the sole responsibility of the Government. RHPOs conduct the Section 106 consultation and prepare the appropriate compliance documentation for the lease contract file. Leasing Specialists and Lease Contracting Officers must be aware of these Section 106 requirements and are ultimately responsible for documenting Section 106 compliance in the lease file. The offeror's pre-award responsibility with regard to Section 106 is limited to providing access to the property for GSA staff and contractors, providing information about the property when requested and addressing any design issues or other mitigation measures noted during the consultation process.

The Section 106 consultation process also requires the input of parties other than the Offeror and the Government. These parties are referred to as consulting parties and include the appropriate State Historic Preservation Officer (SHPO), the Tribal Historic Preservation Officer (THPO), if applicable, any local Historic Preservation Commission or Landmarks Commission, and other interested parties, if applicable. Any party that assumes responsibilities under a memorandum of agreement must be a consulting party. Direct correspondence with the consulting parties is the



Part 2: Market Survey Process

7. Historic Preservation, Floodplain, Wetlands, and Environmental Compliance Checks &

sole responsibility of the Government. Within GSA, the RHPO is the agency official solely responsible for corresponding with the consulting parties.

If the planned leasing action for an offered property results in adverse effects that will require mitigation, as memorialized in a Memorandum of Agreement (MOA) or other official correspondence, implementing the mitigation measures becomes a post-award responsibility of the Lessor. The RHPO, in consultation with the SHPO and other interested parties, is responsible for identifying measures to mitigate adverse effects, and the Leasing Specialist must incorporate the agreed-upon mitigation measures into the lease. For example, if construction will unavoidably disturb an archeological site determined to be historic, mitigation typically will include data recovery. In this case, identifying the archeological site and assessing the possible effects on the site from the proposed construction would occur pre-award and would be the responsibility of the Government. Following lease award, an archeologist retained by the Lessor would fully excavate the archeological site, and the Lessor would be responsible for recovering all of the artifacts (data) contained therein. Any archeologist conducting the work will be required to meet or exceed the Secretary of the Interior's Archeology and Historic Preservation Professional Qualifications Standards and the reports produced by the archeologist must be reviewed and accepted by the RHPO before their submission to the SHPO and any other consulting party. Within GSA, the RHPO is solely responsible for corresponding with the SHPO and any other consulting party.

If the Government determines that post-occupancy alterations, either interior or exterior, or new construction could affect historic properties, the Lessor will be required to retain, at its sole cost and expense, the services of a preservation architect who meets or exceeds the Secretary of the Interior's Professional Qualifications Standards for Historic Architecture, as amended and annotated and previously published in the Code of Federal Regulations, 36 CFR part 61, and the GSA Qualifications Standards for Preservation Architects. These standards are available at: <a href="http://www.gsa.gov/historicpreservation">http://www.gsa.gov/historicpreservation</a> > Project Management Tools > Qualification Requirements for Preservation Architects.

The Lessor's preservation architect will be responsible for developing preservation design solutions and project documentation required for review by the Government, the SHPO, the THPO, as applicable, and other consulting parties in accordance with Section 106. For tenant improvements and other tenant-driven alterations within an existing historic building, the Lessor's preservation architect must develop context-sensitive design options consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties. Where new construction or exterior alterations, or both, are located within a historic district, may be visible from historic properties, or may affect archeological resources, compliance may require tailoring the design of the improvements to be compatible with the surrounding area. Design review may require multiple revised submissions, depending on the complexity of the project and potential for adverse effects to historic properties, to respond to comments from the Government and the other consulting parties. Within GSA, the RHPO is solely responsible for corresponding with the SHPO and any other consulting party.

For further guidance, consult Lease Acquisition Circular (LAC) 2014-06, Lease Requirements for Protection of Environmental, Archaeological, and Historic Resources.

#### Floodplain Check

This step produces documentation for Lease File Tab 2 (i.e., Pre-solicitation Phase) under Flood Plain Check. The purpose of this check is to determine whether any part of the delineated area

#### Part 2: Market Survey Process



5. Historic Preservation, Floodplain, Wetlands, and Environmental Compliance Checks

falls within a floodplain. Later on, during the "Successful Offer and Award Determination" phase, GSA will verify that specific properties offered are compliant with GSA's floodplain policy.

Executive Order 11988, "Floodplain Management," establishes the Federal flood insurance program and directs Federal agencies to avoid leasing space in buildings located within floodplains unless it is determined that there is no practicable alternative. The Leasing Specialist must identify potential floodplain and wetland impacts for projects, identify alternatives that avoid floodplains and wetlands, and coordinate compliance with the National Environmental Policy Act (NEPA) process. As stated under Chapter 1 of the Leasing Desk Guide, Executive Order 13690, "Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input," issued in 2015, amended Executive Order 11988. GSA is updating its Floodplain Management Desk Guide, in accordance with Executive Order 13690 and associated federal implementing guidelines. GSA's existing floodplain process will remain in effect until the updated Desk Guide is issued.

#### Floodplains

Floodplains are categorized as being either a 100-year or 500-year floodplain, depending on the risk that they will flood in any given year. For most leasing transactions, the prohibited risk level is the 100-year floodplain. However, both 100-year and 500-year floodplains are prohibited for certain "critical actions," defined under Executive Order 11988, Floodplain Management, as any activity for which even a slight chance of flooding would be too great a risk. Examples of such critical actions include:

- Irreplaceable records storage facilities
- Medical facilities
- Childcare facilities.

The client agency is responsible for making the determination as to whether its occupancy constitutes a critical action. Since critical actions require a more stringent floodplain standard, it is very important to obtain a critical action determination from the client agency whenever the delineated area includes properties within the 500-year floodplain.

If space is leased for a "critical" Government function such as records storage, medical facilities, or childcare facilities as referenced above and others listed in the *Floodplain Management Desk Guide*, the Leasing Specialist should consult that guide for instructions.

When new space is offered in an existing building in GSA's inventory, Leasing Specialists must never assume a floodplain check was completed. Instead, they must find documented evidence that a check occurred.

Where there is no practicable alternative to a site in a floodplain, a specific eight-step process identified in the *Floodplain Management Desk Guide* must be followed to comply with the Executive order. The Regional Administrator makes the determination that no practicable alternative exists. Leasing Specialists must work closely with the Regional Environmental Quality Advisor (REQA) and Regional Counsel in these situations to justify the decision to solicit a location within a floodplain (explaining the alternatives explored and dismissed, and the reasons). Refer to the *Floodplain Management Desk Guide*, on line at http://www.gsa.gov/graphics/pbs/PBS\_Floodplain\_Management\_DeskGuide.pdf, and ADM



Part 2: Market Survey Process

7. Historic Preservation, Floodplain, Wetlands, and Environmental Compliance Checks &

1095.6, "Considerations of Floodplains in Decision Making" at http://www.gsa.gov/graphics/pbs/GSA ADM 1095.6.pdf.

In addition, the Federal Emergency Management Agency (FEMA) maintains a list of Flood Insurance Rate Maps (FIRMs) that show floodplain locations and hazard insurance data. If no FIRM exists, Leasing Specialists must consult with the REQA or the regional NEPA expert to research whether flood hazard studies occurred in the area and to identify the floodplain boundaries. These additional sources can be used to make a floodplain determination:

- Google Earth using the FEMA National Flood Hazard Layer
- FEMA Map Service Center at https://www.msc.fema.gov/portal
- Multi Asset Planning Tool (MAP): The Multi Asset Planning (MAP) Tool is an easy-to-use
  platform that allows users to visualize geographic data and perform basic spatial analyses,
  combining information about the PBS inventory with third party data such as FEMA flood
  plains, transit station locations, seismic zones, and location sustainability.
  <a href="https://agsivvwa.gsa.gov/urbdev\_maptool/">https://agsivvwa.gsa.gov/urbdev\_maptool/</a>.

The REQA or the regional NEPA expert should be consulted for all floodplain determinations.

#### Wetlands

Executive Order 11990, "Protection Of Wetlands," directs GSA and other agencies to minimize the destruction, loss, or degradation of wetlands. Avoid leasing actions that could result in a discharge into a wetland (e.g., placement of dirt or debris from a renovation project in a wetland).

Wetlands are areas that are inundated by surface or groundwater with a frequency sufficient to support, and under normal circumstances do or would support, a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river outflows, mud flats, and natural ponds. Wetlands are often associated with floodplains, but may also occur in other situations. For instance, a wetland may be formed and maintained by a high water table in areas with shallow depressions in the topography.

Wetlands may be identified from maps in the U.S. Fish & Wildlife Service's National Wetlands Inventory (http://www.fws.gov/wetlands/) or by contracting for a survey. For more detailed information on compliance, see Executive Order 11990, the PBS *Wetlands Impact Management Desk Guide*, and ADM 1095.5, "Consideration of Wetlands in Decision Making," online at http://internotes.gsa.gov/Insite/gsad.nsf/wp\_InsiteDirectivesDisplay/E677CD3744D7AF4485256A AE004E72D6?OpenDocument.

When both Executive Orders 11988 and 11990 would apply—for example, if an action overlaps floodplains and wetlands, such as in coastal areas where most wetlands are located in floodplains—both orders should be followed, but the more detailed floodplains order takes precedence if there appears to be any conflict or question about execution of the orders. The PBS Wetlands Impact Management Desk Guide, online at <a href="http://pbsportal.pbs.gsa.gov:7777/pls/portal/docs/page/PL/Documents/PL/library/PBS\_Wetlands\_Impact\_Management\_Desk\_Guide.pdf">http://pbsportal.pbs.gsa.gov:7777/pls/portal/docs/page/PL/Documents/PL/library/PBS\_Wetlands\_Impact\_Management\_Desk\_Guide.pdf</a>, also provides additional guidance in this area.

Part 2: Market Survey Process



57. Historic Preservation, Floodplain, Wetlands, and Environmental Compliance Checks

#### **Environmental Check**

This step produces documentation for Lease File Tab 2 under NEPA Compliance.

NEPA requires an assessment of the environmental impact of every proposed Federal action that could affect the environment. This chapter and Chapter 18, Sustainability and Environmental Considerations, provide guidance on assessing the environmental impacts of potential leases. Leasing Specialists are highly encouraged to consult with the Regional Environmental Quality Advisor (REQA) to determine which regional best practices are most appropriate for meeting NEPA requirements for new leases. REQAs and regional NEPA experts determine the appropriate level of environmental analysis for a proposed action and prepare the NEPA compliance documentation for the lease contract file. Leasing Specialists and Lease Contracting Officers must be aware of these NEPA requirements and are ultimately responsible for documenting NEPA compliance in the lease file.

NEPA compliance must be completed before issuing a lease award. Leasing Specialists must initiate conversations with Regional NEPA Managers early in the leasing process before the opportunity to consider alternatives has been overtaken by the urgency of a lease requirement. Most GSA leases either acquire space in an existing building which does not change the type or intensity of use, or are lease extensions, renewals, and succeeding leases. These are categorically excluded from a formal NEPA assessment. They will be considered either -

- 1) An "automatic" categorical exclusion (CATEX), meaning a type of action that experience has shown never poses a significant impact on the quality of the human environment; or
- 2) A "checklist" CATEX, meaning a type of action that requires completion of a checklist to ascertain that extraordinary circumstances do not exist.

The Council on Environmental Quality guidelines, at 40 CFR 1508.4, support a categorical exclusion for most leases. The guidelines define a categorical exclusion to encompass actions that "do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency...and for which, therefore, neither an Environmental Assessment nor an Environmental Impact Statement is required."

The environmental impact review is addressed in greater detail in Chapter 18 of this Desk Guide. Leasing Specialists should also familiarize themselves with the PBS NEPA Deskguide <a href="http://pbsportal.pbs.gsa.gov:7777/pls/portal/docs/page/PL/Documents/PL/library/NEPA\_DeskGuide\_1.pdf">http://pbsportal.pbs.gsa.gov:7777/pls/portal/docs/page/PL/Documents/PL/library/NEPA\_DeskGuide\_1.pdf</a> and consult their regional NEPA officers for assistance and more complete direction.

The Lease Contracting Officer must document this CATEX step in the lease file in accordance with the checklist items, recognizing that this requirement may not be resolved in some projects until after offers have been received and evaluated. If an automatic CATEX applies, document the file with a memo or use the Auto-CATEX form available on the GSA InSite portal or listed in Appendix C.

Note that, in accordance with section 2.15.4.A (Additional Services Outside of PBS Fee, Environmental Studies) of the PBS Pricing Desk Guide (4<sup>th</sup> edition, revised October 3, 2011), environmental studies related to NEPA, such as an EA or EIS, for projects in leased facilities are funded by the customer agency through a reimbursable work authorization (RWA). Moreover, the section regarding Due Diligence/NEPA in Chapter 14 (Lease Construction) of this Leasing Desk Guide (revised April 29, 2011) reiterates that the customer agency pays for NEPA-related studies,





7. Historic Preservation, Floodplain, Wetlands, and Environmental Compliance Checks  $\not \circlearrowleft$ 

including pre-award archeological investigations and other cultural resource surveys, as necessary, with an RWA for actions in leased facilities (see page 14-22).



1. Overview

# Part 3: Solicitation Process

1. Overview	2.3-1
2. How to Build the Request for Lease Proposals (RLP) Package	2.3-3
a. Identify Appropriate RLP and Lease Templates	2.3-4
b. Compiling the RLP and Lease Boilerplate	2.3-4
c. Combined Template for FedBizOpps Advertisement and Procurement Summary	2.3-5
d. Attachments to the RLP	2.3-5
e. RLP Review and Approval by Agency	2.3-7
f. RLP Review and Approval by Legal Counsel	2.3-7
3. RLP Distribution	2.3-8
4. Amending the RLP Package	2.3-8
a RLP Amendments Review and Approval by Legal Counsel	2 3-9

# 1. Overview

Prior to Lease Reform, GSA used a Solicitation for Offers (SFO) to invite the submission of offers for a lease acquisition. The SFO boilerplate served two functions: it specified the preaward requirements for offerors in submitting an offer of space, and post award it became part of the actual lease contract, legally binding the offeror—now the Lessor—to its terms. As a result, the SFO intermingled procurement and contract language, potentially creating ambiguity between solicitation and lease requirements. To minimize this, the SFO boilerplate was split into two documents: the RLP template, which describes the criteria that the Government will use to evaluate offers, and the Lease template, which describes the Government's space requirements. As explained in Part 1, it is critical that the acquisition plan is finalized at this stage before the RLP is issued.

The Leasing Specialist or broker contractor develops the RLP package tailored to the requirements of each particular lease procurement using the appropriate forms and paragraphs required by GSA policy. The RLP package, at a minimum, may include the RLP, the lease, agency requirements; a proposal to lease space; security, safety, and seismic forms; and other GSA mandatory standard forms and certification requirements. After obtaining agency concurrence, the Leasing Specialist or broker contractor sends it to all prospective offerors identified on the market survey and any other party that requests a copy.

The RLP package forms the basis of the entire process of lease negotiation. It defines for the market the Government's minimum requirements, so that the Government gets the correct type,

Part 3: Solicitation Process

5 1. Overview



quantity, and quality of space and services. It also includes offer forms and solicitation provisions and clauses that are required for Government contracts.

GSA uses different RLP and lease model templates, each tailored to address specific project criteria, which are sufficiently flexible to meet varying lease requirements and to promote the maximum possible competition in the real estate market. The choice of template is affected by criteria such as the following:

- Anticipated dollar value of the leasing action. For example, is project at or below the Simplified threshold?
- Type of space required. Is requirement made up of primarily office space, or are we obtaining a warehouse or parking lease?
- Unique sites such as airports.

Note that GSA originally issued RLP and lease templates for three lease models, Standard, Streamlined, and Succeeding/Superseding. However, in 2015, GSA replaced these individual model RLP and lease templates with Global RLP and Lease templates. The Global templates collapse the language and logic from the separate models into one RLP and one lease template, allowing the Leasing Specialist/Lease Contracting Officer greater flexibility to choose among paragraphs and sub-paragraphs in addressing such project differences as:

- Extent of specificity and detail in the requirements package. Do we have a biddable set of requirements allowing us to obtain turnkey Tenant Improvement (TI) pricing?
- Expectation that we will remain at the current location and whether we want to communicate a competitive or sole source procurement.
- Design Intent Drawings (DID) delivery method
- Level of anticipated buildout.

The most current version of the RLP and lease documents are available on the National Office of Leasing Google site.

Once the RLP package is prepared, the Leasing Specialist or broker contractor sends a draft to the client agency for review and approval. The draft RLP package and agency comments are then submitted to the Leasing Specialist. If necessary, the Leasing Specialist or broker contractor updates the RLP package to address these comments and resubmits it to the Lease Contracting Officer for review and approval.

Once the Lease Contracting Officer approves the RLP package, the Leasing Specialist issues it. The date for receipt of offers must comply with GSAM Part 570 requirements.

In some circumstances an RLP amendment may need to be prepared, if requirements change.

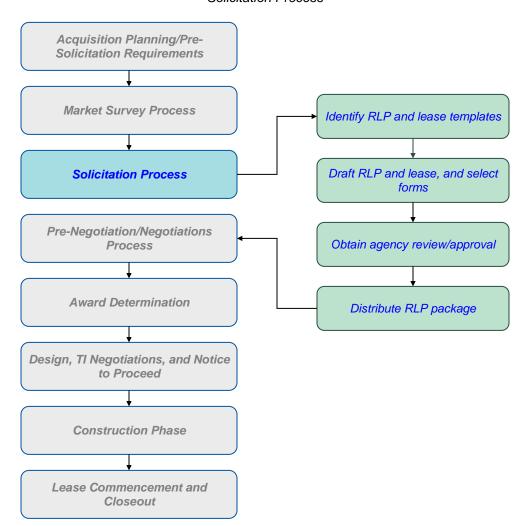
#### **Establishing the Offer Due Date**

Except in special circumstances such as simplified acquisitions or emergency leases, the Leasing Specialist must provide offerors no less than 20 calendar days between issuing the Request for Lease Proposals and the deadline for receiving initial offers.

2. How to Build the Request for Lease Proposals (RLP) Package

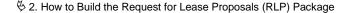
The following illustration shows the steps in the solicitation process. Each step below is linked to the section that discusses the topic.

#### Solicitation Process



# 2. How to Build the Request for Lease Proposals (RLP) Package

The RLP and lease templates on the Office of Leasing Google site are the most current and should be the starting point for developing RLP packages for most transactions. The templates include the draft content (in printing black and/or red text), as well as hidden blue instructional text that guide the Leasing Specialist through modifying the templates for specific lease actions as needed.





## a. Identify Appropriate RLP and Lease Templates

As mentioned earlier in this chapter, certain factors help the Leasing Specialist decide which RLP and lease templates to use. RLP and Lease template options include Global, Simplified, Small, On-Airport and Warehouse. Choose the right one for the action. Depending on which templates are chosen, the Leasing Specialist confirms the requirements with the client to tailor the RLP and lease templates for the procurement. This section addresses the boilerplate RLP and lease templates; the rest of the RLP package and paragraphs are addressed later.

## b. Compiling the RLP and Lease Boilerplate

At the core of the RLP package are two documents: the RLP and lease templates. The RLP outlines the basic space requirement and describes the offering process to interested parties. The RLP communicates when offers are due; specifies the forms, submittals, and other

documentation required as part of an offer package; and describes the evaluation methodology the Government will use in making its award decision. The Lease, which represents the proposed contract, more fully describes the Government's space requirements. In addition to defining the required square footage, lease term, delivery schedule, and level of services and utilities, the lease outlines minimum technical specifications and codes for the building systems,

# Consult on RLP or Lease Deviations

The PBS Office of Leasing should be consulted when significant deviations from the RLP or Lease are proposed.

structure, and interior fit-out. Security requirements, as well as the agency's unique and special requirements are attached separately to the document. While detailed in scope, the technical specifications outlined in the RLP and lease are performance-based, not prescriptive, meaning that offerors must provide the technical solution to meet the minimum specifications. It's important to note that after award of the lease, the RLP is not included in the actual lease contract.

#### **Selection of Paragraphs**

Both the RLP and lease boilerplate templates contain a series of paragraphs, mandatory and non-mandatory, organized by sections. Following the PBS policies in the non-printing blue text instructions contained throughout the template, Leasing Specialists build the RLP and lease boilerplate by choosing the appropriate paragraphs and filling in the blanks to reflect the requirements of the procurement. Most of the information needed to fill out the RLP and lease documents are identified through the requirements development process described under Chapter 1, including:

- Area of consideration/delineated area;
- Amount of space to be set aside for Randolph-Sheppard vending facilities (contact the Regional GSA Concessions Specialist);
- Agency normal hours of operation; and
- Above-standard or 24/7 utility usage requirements.

The blue hidden instructions in the document templates explain the protocol to follow if deleting or modifying paragraphs. Individual revisions or the addition of paragraphs and region-specific



2. How to Build the Request for Lease Proposals (RLP) Package  $\ensuremath{\mathcal{Y}}$ 

paragraphs should be reviewed by the Office of Regional Counsel for consistency and legal sufficiency before inclusion.

# c. Combined Template for FedBizOpps Advertisement and Procurement Summary

The Combined Template for FedBizOpps Advertisement and Procurement Summary referred to in the Leasing Desk Guide as the Procurement Summary (see the Office of Leasing Google site, Lease Forms tab or Appendix C for the template) provides the market a clear, concise, and immediate understanding of the requirements of the Government. The summary was developed in response to leasing industry forums and requests that GSA provide a "snapshot" view of what and when the Government was seeking space. The summary provides all of the critical information to a potential offeror "at a glance" and negates the need for reading multiple pages within the document to determine if they can meet the requirements of the procurement. The summary has all of the key elements listed in an easy to read grid, such as square footage, delineated area, parking requirements and term of the lease (firm and non-firm term). The summary also lists the offer due date and the occupancy date, important dates for the market to see and know at this stage.

The FedBizOpps Advertisement and Procurement Summary must be included with every RLP package by printing and attaching to the front of the RLP for all types of leases and lease models, including packages issued electronically.

#### d. Attachments to the RLP

The Leasing Specialist must attach other important documentation to the RLP and lease documents in order to complete the RLP package. These can include additional specifications describing the agency's special and ISC security requirements, and additional clauses, provisions, and offer forms.

#### **Selection of Forms**

Leasing Specialists must use the clauses and provisions on the appropriate version of the GSA Forms 3516, 3517, and, for disaster leases only, 3518.

- Solicitation Provisions. The Solicitation Provisions (GSA Form 3516) outline the basic ground rules for all lease procurement actions. Key definitions and instructional information are found here covering such topics as late proposals, parties authorized to execute leases, protests, and floodplains.
- General Clauses (Acquisition of Leasehold Interests in Real Property). The General Clauses (GSA Form 3517B) govern the lease in the post-award and post-occupancy environment. The clauses within this document include the following categories: General, Performance, Inspection, Payment, Standards of Conduct, Adjustments, Audits, Disputes, Labor Standards, and Subcontracting. It is important to remember that certain clauses are required by law and regulation and cannot be modified or deleted. For clauses that may be modified, the Lease Contracting Officer should only do so when appropriate and advantageous to the Government; the Lease Contracting Officer must also ascertain whether the proposed deviation imposes unacceptable risk to the Government. Any proposed modification must be reviewed and approved by the Office of Regional Counsel before approval by the Lease Contracting Officer. All approved modifications must be provided to all offerors in an amendment.

#### Part 3: Solicitation Process



\$2. How to Build the Request for Lease Proposals (RLP) Package

- Offer forms. The Leasing Specialist must include all the forms to be filled out and returned by the offerors by the due date outlined in the RLP boilerplate. These forms include:
  - GSA Form 1364, Proposal to Lease Space;
  - GSA Form 1217, Lessor's Annual Cost Statement, with instructions:
  - Either GSA Form 3518, Representations and Certifications (Acquisition of Leasehold Interests in Real Property (only applies to disaster leases) or GSA Form 3518-SAM, Addendum to the Systems for Award Management (SAM) Representations and Certifications (Acquisition of Leasehold Interests in Real Property). See the discussion under Part 4, paragraph 3.a, Reviewing Offers, for further explanation;
  - GSA Form 12000, Prelease Fire Protection and Life Safety Evaluation;
  - Seismic forms A through F, if applicable; and
  - Security unit price list, if applicable.

#### **Labor Standards**

The Labor Standards paragraph provides that if an offeror proposes to satisfy the Government's requirements through new construction or the complete rehabilitation or reconstruction of an existing building, and the Government will be the sole or predominant tenant of the facility such that any other use of the building will be functionally or quantitatively incidental to the Government's use and occupancy, then various FAR clauses implementing the Davis-Bacon Act of 1931 apply. These include FAR 52.222-6, "Davis-Bacon Act," and 52.222-13, "Compliance with Davis-Bacon and Related Act Regulations." When the delivery schedule is long enough to permit satisfying the space requirements through construction of a building, Lease Contracting Officers must include the Labor Standards paragraph in the lease.

The Davis-Bacon Act governs "wage determination," defined as wage rates and fringe benefits rates for each classification of laborers and mechanics prevailing in a given area to be paid under Federal contracts. The wage determination list requires contractors or their subcontractors to pay on-site workers no less than the locally prevailing wages and fringe benefits paid on projects of a similar character. The Department of Labor issues wage determinations that establish these locally prevailing wages and benefits. The Davis-Bacon requirements apply to both base building and tenant buildout work.

If the lease contains the Labor Standards paragraph, Lease Contracting Officers must obtain a Department of Labor wage determination for the applicable geographical area and attach a copy to the RLP package. Wage determinations are available from the Department of Labor's Wage Determinations OnLine web site (www.wdol.gov).

#### If GSA Receives No Lease Construction Offers

In some cases GSA might not receive any lease construction offers by the due date for initial offers. If the Lease Contracting Officer used the standard language in GSA Form 3516 from GSAR 552.270-1(c)(2)(i) stating that the Government will not consider offers **received after the due date for initial offers**, the Labor Standards paragraph should be deleted from the lease. In



Part 3: Solicitation Process

this situation, GSA is not required to update the wage determinations. However, in such situations, if the GSA Form 3516 contains the alternate language from 552.270-1(c)(2)(i) that allows the Government to consider offers received up to the due date for final proposal revisions, GSA must keep the Labor Standards paragraph in the draft lease and continue to update the wage determinations. This should be rare, however, and the Lease Contracting Officer should only use the GSAR alternate language after consultation with regional council.

#### Later Changes to Wage Determination

If a change occurs to the wage determination after the receipt of final proposal revisions but before lease award, GSA is required to reopen negotiations to allow the offeror to revise its price.

With respect to changes to the wage determination after lease award, the Civilian Board of Contract Appeals has held that modifications to the wage rates are not required to be implemented into existing contracts post-award except where a mistake has been made, such as not incorporating one at all, or inserting the wrong determination.

#### "Labor Standards" in the General Clauses

The paragraph for Labor Standards relating to the Davis-Bacon Act is in addition to, and should not be confused with, the separate "Labor Standards" section in the General Clauses, GSA Form 3517B or GSA Form 3517D That section of the General Clauses incorporates requirements for equal opportunity/affirmative action employment, prohibition of segregated facilities, post-award representations of small business status, equal opportunity for veterans, affirmative action for disabled workers, and veteran employment reporting requirements. The Department of Labor is responsible for enforcing these provisions.

# e. RLP Review and Approval by Agency

Before issuance to any interested party, the responsible Leasing Specialist must forward the draft RLP package (including the lease, special, and security requirements) to the requesting agency for approval. The Leasing Specialist should indicate a deadline for agency response, allowing adequate time for a thorough review. The Leasing Specialist will incorporate appropriate changes into the final version of the RLP package. If the Leasing Specialist does not receive timely comments or approval from the agency, the Lease Contracting Officer may decide to issue the RLP and address changes by an amendment if necessary.

# f. RLP Review and Approval by Legal Counsel

As outlined under GSA Order ADM 5000.4B, the LCO must obtain pre-issuance legal review of RLP packages under the following circumstances:

- Actions with an aggregate value of \$20 million or more.
- Actions utilizing Best Value Trade-Off source selection above SLAT
- Prospectus-level projects.

See Paragraph 4 below for the requirements for legal review of RLP amendments.

\$3. RLP Distribution



# 3. RLP Distribution

This step produces documentation required for Lease File Tab 3.

Unless a Small or Simplified model is used, RLPs should not be handed out during the market survey. The survey may reveal certain weaknesses in the draft RLP, which may need revision before issuance.

Once the RLP has been finalized and approved by the Lease Contracting Officer, the Leasing Specialist should distribute the RLP package to offerors, along with the FedBizOpps Advertisement and Procurement Summary and a cover letter. The Lease Contracting Officer has ultimate responsibility to verify and validate the RLP before it is released. The RLP must specify the name of the Lease Contracting Officer. GSAM 570.106 states that "[e]xcept as otherwise provided in paragraph (b) of this section and as set forth in paragraphs (g) and (h) of this section, the contracting officer must provide offerors not less than 20 calendar days between solicitation issuance and the date established for receipt of initial offers."

The RLP Distribution List identifies the date the RLP was issued, as well as the name and contact information for everyone receiving an RLP—all potential offerors, client agency personnel, the

Federal Protective Service, the GSA Field Office, and anyone else as determined by the Lease Contracting Officer who received an RLP.

The list (or transmittal letters) and a copy of the approved RLP package must be filed in Lease File Tab 3. Also include a copy of any disk issued to offerors.

If the RLP is issued electronically (via CD-ROM or email), a copy of the disk as well as a paper copy of all issued documents must be filed in Lease File Tab 3 under Final RLP Package with Attachments.

#### **RLP** requests

Current Lessors that appear to be incapable of meeting the requirements of the RLP may be issued a letter explaining that they may not meet the current requirements.

However, anyone who requests an RLP—including the current Lessor and those that appear to not meet the requirements—must be given an RLP.

# 4. Amending the RLP Package

Any addition, alteration, or deletion of information contained in an RLP package after it is released to the market is accomplished through a written amendment. Leasing Specialists should strive to prepare a careful and thorough RLP package, so that amendments are the exception, rather than the rule.

An amendment must:

- reference the RLP number;
- be consecutively numbered;

4. Amending the RLP Package ♥

- list the city and state;
- bear receipt acknowledgment by the recipient; and
- be sent to all offerors/interested parties.

When amending the RLP preaward, the Leasing Specialist must take care to ascertain and identify which portion of the RLP package is being changed, since the RLP package includes not only the RLP template, but the proposed lease document and other attachments. For example, an RLP amendment that extends the offer due date changes the terms listed in the RLP portion of the package, since it affects only the solicitation process, which ends upon lease award. On the other hand, an RLP amendment to insert additional janitorial services reflects a change to the lease portion of the package, since this affects the future leasehold obligations of the parties. However, while an RLP amendment can modify the terms of the proposed lease, it is not the same instrument as a lease amendment, which reflects post-award changes to the executed lease contract.

Please note that a material change in requirements may require more than an amendment. A new advertisement or a cancellation of the solicitation may be required.

## a. RLP Amendments Review and Approval by Legal Counsel

Pre-issuance Legal review is required of all RLP amendments under the following circumstances:

- The underlying RLP was not subject to legal review and the content of the proposed amendment, if included in the original RLP, would have resulted in pre-issuance legal review.
- RLP amendments proposing to cancel a procurement.
- RLP amendments where the underlying RLP was the subject of pre-issuance legal review and the proposed amendment:
  - Would be issued following the receipt of final proposal revisions (best and final offers);
  - Would make changes to minimum requirements of the RLP, including the addition of scope; or
  - Would make other changes to the RLP having a substantive impact on the competition, including the addition or deletion of, or changes to, evaluation factors or the basis for award.
- RLP amendment resulting from a GAO protest ruling or from corrective action taken by the Agency.



Part 4: Pre-Negotiation/Negotiations Process

4. Amending the RLP Package ♂

# Part 4: Pre-Negotiation/Negotiations Process

1. Overview	2.4-2
2. Preparations for Negotiations	2.4-3
a. Understanding the Goals	2.4-3
b. Market Knowledge	2.4-4
c. Setting Negotiation Objectives	2.4-5
3. Screening Offers Received and Subsequent Negotiations	2.4-6
a. Reviewing Offers	2.4-7
b. "Discussions" versus "Clarifications"	2.4-12
c. Determining Competitive Range	2.4-13
d. Conducting Negotiations	2.4-14
4. Final Proposal Revision	2.4-16

Part 4: Pre-Negotiation/Negotiations Process

5 1. Overview



## 1. Overview

Offers rarely contain perfect solutions to the RLP. The goal of negotiations is to reach an agreement representing the best value to the Government, in terms of price and other factors, while allowing a reasonable profit for the owner. In most transactions, the LCO (with assistance from the Leasing Specialist or broker contractor) negotiates with the offeror to establish a fair and reasonable price and agree on all contract terms. Negotiations must confirm that GSA and the offeror all agree on the essential elements of the contract, and that each offer either does or does

not meet all the requirements of the RLP. However, leases can be awarded based on initial offers if the RLP allows it and includes Alternate 1 to 48 CFR 552.270-1, Instructions to offerors—Acquisition of Leasehold Interests in Real Property. This decision should normally be made during acquisition planning and must be made before issuing the RLP.

The negotiation process involves evaluating and analyzing proposals to verify that all required parts are included and assessing the offeror's responsiveness;

#### When to Negotiate?

While GSA has the authority to award without negotiations, Lease Contracting Officers should always assess the potential risks of awarding without negotiations or discussions.

determining the competitive range; preparing the initial abstract of offers; notifying offerors of deficiencies; conducting direct negotiations with each offeror; compiling required documentation; requesting final proposal revisions; and determining the offeror's responsibility.

When conducting negotiations, the roles must be clear. The Lease Contracting Officer, Leasing Specialist, or broker contractor are the only parties authorized to negotiate with an offeror concerning the space to be leased. The competitive range is an initial baseline for judging the reasonableness of cost or price estimates. It is discussed further below in "Screening Offers Received and Subsequent Negotiations" under "Determining Competitive Range."

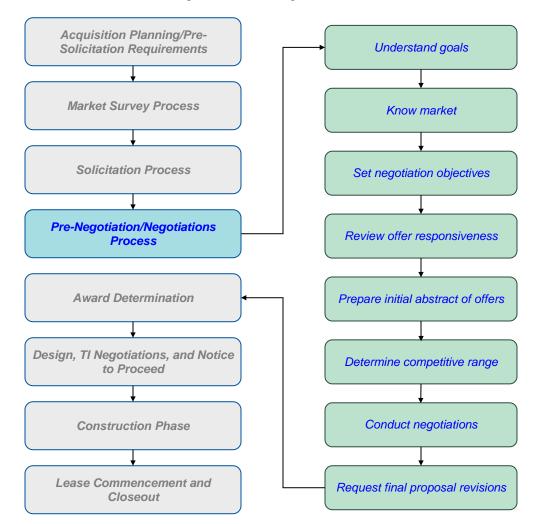
Preparation is essential for successful negotiations. Before engaging offerors in negotiations, GSA must establish its initial negotiation position. Negotiation objectives (see "Setting Negotiation Objectives") are usually targets within a price range that the Leasing Specialist expects negotiated rates to fall within, based on market research. Pre-negotiation steps include understanding the solicitation goals, knowing the market, and setting negotiation objectives.

The following illustration shows the steps in pre-negotiations and negotiations. Each step below is linked to the section that discusses the topic.

Part 4: Pre-Negotiation/Negotiations Process

2. Preparations for Negotiations &

#### Pre-Negotiations and Negotiations Process



# 2. Preparations for Negotiations

# a. Understanding the Goals

Depending on the procurement method stated in the RLP, proposals deemed to be technically acceptable may be evaluated on price alone, or a combination of price and technical tradeoffs using award factors, which is referred to as best value tradeoff (see "Reviewing Final Offers"). If you are conducting a best-value tradeoff procurement, consult the Desk Guide section on award factors in Chapter 13. These specific award factors must be identified in the RLP.

It is especially important to have knowledge of the following areas in preparation for negotiations:

 Market—familiarize yourself with the market survey findings and other background information.

#### Part 4: Pre-Negotiation/Negotiations Process





\$\times\$ 2. Preparations for Negotiations

- The requirements—strive to thoroughly understand the needs of the client agency and other stakeholders.
- The choices—options that arise when you compare the requirements with the market. As
  recent trends provide increasing frequency of procurements in which Government
  requirements are beyond market standards (because of security, Energy Star, LEED,
  accessibility, or other needs) or if new construction is possible, consult with technical
  experts as necessary to quantify what cost impact that requirement is likely to have to
  procurement beyond the market range and factor that into the negotiation objectives.
- The process—anticipate the upcoming steps you will need to take and be familiar with best practices for conducting negotiations.
- The goals—develop a clear understanding of the specific goals you want to achieve during negotiations. Know what you want and what you are willing to trade off to reach an agreement. Keep in mind the target and maximum prices. Set your position and hold to it. Re-familiarize yourself with the RLP package.
- The other party—know what offerors want, their needs, and what they are willing to trade off to reach an agreement.
- The strengths and weaknesses of the Government's position—your relative bargaining
  position is likely to be stronger in competitive solicitations, when you can afford to take a
  harder line, as opposed to a sole source scenario.

# b. Market Knowledge

Market research plays a central role in setting negotiation objectives by helping to identify ranges of fair and reasonable costs for the type of space desired. Leasing Specialists are required to use Bullseye Reports for REIS major markets; reports are generated as part of the G-REX workflow process. There are three main tasks associated with Bullseye: Capture Market Location, Request Bullseye Report, and Request Pre-Award Assessment. Only the Capture Market Locations task is mandatory if the project meets the following criteria:

- The space requirement is greater than 2,000 RSF;
- The lease firm term is equal to or greater than 36 months;
- The project involves primarily office space (greater than 75 percent); and
- The lease action is New, New/Replacing, Succeeding, or Superseding.

Leasing Specialists should request a Bullseye report for extensions, renewals, AAAP leases, actions less than 36 months, or less than 2,000 RSF through Sharepoint/Google Drive. For additional details on the Bullseye program, see Leasing Alert entitled "Bullseye, Negotiation Objectives, and GLS Commission Management.

In addition to information gathered during the market survey and the Bullseye Reports, Leasing Specialists can refer to the additional sources below.

Part 4: Pre-Negotiation/Negotiations Process

2. Preparations for Negotiations

- Competing offers received in response to the RLP, and documenting this comparison;
- Research commercial trade publications to become familiar with the market; consult the Building Owners and Managers Association (BOMA) for operating costs, the Means Cost Manual for construction costs, the Society of

Industrial and Office Realtors (SIOR), Reis Inc., and market reports such as those from CoStar and LoopNet;

 Current market information, including rental quotes and cost estimates obtained on the market survey and from real estate market data sources (such as CoStar or CBRE Econometric Advisors (CBRE EA),); and

#### Is TI in the rate?

Typically, the private sector includes some TI in the stated shell rate, so make sure to ask for the breakdown from any brokers or owners you consult. This is important because we could be leaving money on the table (the shell rate could include a TI amount).

• Recent GSA and/or private-sector lease contract rental rates.

## c. Setting Negotiation Objectives

This step produces documentation for Lease File Tab 4 under Negotiation Objectives.

Before engaging offerors in negotiations, GSA or the broker contractor must establish its initial negotiation position. Negotiation objectives typically are rates within a range that the Leasing Specialist expects to achieve through negotiations. The defined range is based on the market research. Negotiation objectives can include other negotiated terms such as termination rights, lease term, etc. The Lease Contracting Officer's determination of a fair and reasonable price should align with these price objectives.

The Leasing Alert entitled "Bullseye Program, Negotiation Objectives, and GLS Commission Management" issued a standardized negotiation objectives template that is required to be used for all projects regardless of size or procurement type (except for AAAP leases, disaster leases,

On-Airport, and Small (3626) leases) to ensure national consistency in developing negotiation objectives. This template is also needed to ensure that GLS Commission Management is administered consistently across all regions for all broker projects. The negotiation objectives template has features which should aid in its preparation and completion. First, in

#### **Pricing Objectives**

Objectives must be established before negotiations.

REIS major markets, the template automatically imports market information from REIS. Second, it allows for manual inputs intended for secondary, small markets, or for non-office space in any market. And, finally, the template streamlines the amount of time needed to complete it since many of the fields are auto-populated and calculated. Using the template, Leasing Specialists must develop negotiation objectives for the following items:

- Shell rental rate;
- TI amortization and rental rates;
- Building Specific Amortized Capital amortization and rental rates, as appropriate for the project (Note that BSAC pricing may vary depending upon assigned Facility Security

#### Part 4: Pre-Negotiation/Negotiations Process



\$3. Screening Offers Received and Subsequent Negotiations

Level (FSL), building characteristics, etc., and therefore it may not be possible to accurately establish an objective for this rental component.);

- Base cost of services;
- Hourly overtime rate (paid separately via RWA);
- Offeror's TI fee schedule (for A/E services and Lessor's project management);
- Adjustment for vacant premises; and
- Parking (see note below).

On projects tasked to the broker, the broker will prepare the negotiation objectives. On in-house projects, the Leasing Specialist may prepare the negotiation objectives. Both the preparer (Leasing Specialist or broker) and the approver (Lease Contracting Officer) must sign and date the objectives.

Although the above items constitute the minimum mandatory negotiation objectives, there are additional considerations that may be important in the context of various projects, such as potential TI concessions, market escalations, free rent, and the timing and impact of tax assessments on base-year taxes.

Note: When parking is a requirement of the lease, the Leasing Specialist should include parking costs in the negotiation objectives and consider the prevailing rate for parking spaces in the market. In some markets parking spaces are generally free, while in others a cost is associated with them. When the Government is acquiring parking spaces at cost, those rates should become part of the negotiation just like any other cost of the lease. If there is a separate cost associated with the parking spaces, the best practice is to specifically identify this in the lease and associated Occupancy Agreement (OA) as a parking expense. Otherwise the parking cost may make the shell cost appear unduly high compared with the market.

# 3. Screening Offers Received and Subsequent Negotiations

Negotiations are conducted on behalf of the Government by the Leasing Specialist or broker contractor. GSA negotiates the rental price for the initial term, any renewal periods, and any other aspect of the offer as deemed necessary. GSA should conduct negotiations with all offerors that are within the competitive range prior to calling for final proposal revisions. See section 3.b. below for detailed requirements regarding negotiations.

The Leasing Specialist must keep records on all communications and documents from the initial contact with the offeror through lease award. This includes meeting notes, emails, the abstract of offers, the request for final proposal revisions, and similar documents.

Part 4: Pre-Negotiation/Negotiations Process

3. Screening Offers Received and Subsequent Negotiations

# a. Reviewing Offers

The Leasing Specialist must evaluate offers for completeness and technical compliance. A general assessment considers the following:

- Is the offer timely as defined in the Solicitation Provisions, GSA Form 3516?
- Is the offer complete? (Have all forms been completed?)
- Does the offer comply with the RLP package terms and conditions?
- Does the offer satisfy all of the Government's requirements?
- Are the offerors' mathematical calculations correct?
- Does measured space meet the requirement?

#### **Abstract of Offers**

The Abstract of Offers is a requirement of the Lease File as well as a useful tool that captures the

capability of each offeror and assesses their ability to meet the requirements in the RLP package. A completed abstract will highlight deficiencies and negotiation opportunities that can be addressed in follow-up letters and calls to offerors. The Leasing Specialist can use G-REX to prepare the abstract for each offeror.

#### **Quick Tip**

As you work through the Evaluation of Offers Phase in G-REX, the Abstract of Offers will be automatically updated and generated by the system.

The RLP Section 3.0, How to Offer, describes in detail offer submittal requirements. Below is also a summary

of items involved in assessing offer compliance, most of which are documented on the Abstract of Offers.

#### **Scaled Plans for Space Offered**

Reviewing the scaled drawings is a critical part of the offer review to verify that space being offered meets the requirements of the RLP. The following are things to consider when reviewing the floor plans:

- The block of space offered is the same space that was toured.
- Plans are to scale and that all structural elements (stairs, elevators, columns, loadbearing walls, windows, restrooms, etc.) are

shown and meet ABAAS and fire safety standards.

- The space offered meets client agency special requirements (layout and configuration specifications).
- Measured floor plans confirm that the space is

# Conversion Matters—Quick Validation

The rates for rentable square feet (RSF) should be less than the rates for ANSI/BOMA Office Area (ABOA) square feet.

Part 4: Pre-Negotiation/Negotiations Process



\$\times\$ 3. Screening Offers Received and Subsequent Negotiations

within RLP ABOA square footage requirements.

#### GSA Form 1364, Proposal to Lease Space

GSA Form 1364 contains the rental information and other critical offer elements. In addition to verifying that all mathematical calculations and building information—including address, square footage, and parking—are correct, the following should be considered:

- Rentable (RSF) and ANSI/BOMA Office Area (ABOA) square feet and common area factor are in alignment.
- Cost components are provided, such as shell, operating, and Building Specific Amortized Capital.
- The TI allowance amount meets RLP requirements, and TI rental rate accurately reflects the TI amortization term and rate.
- Parking capacity number and cost are in compliance with the RLP.
- Lease term and termination rights are in compliance with the RLP.
- Applicable fees and other costs are provided.
- Deviations are noted and will need to be addressed.
- Compliance with technical requirements such as ABAAS, seismic safety, and EISA.
- The form is signed and dated by an individual having authority to bind the offeror.

#### **GSA Form 1217, Lessor's Annual Cost Statement**

GSA Form 1217 captures an offeror's variable and fixed operating cost expenses for both the building in its entirety, and the offered space, primarily for the purpose of determining a fair and reasonable operating cost rate for future CPI escalations.

Lines 5 through 26 of the form identify the components of the operating cost portion of the rental rate. The total amount listed on line 27, column B, when divided by the rentable square footage, represents the Lessor's total cost to provide services and utilities to the Government's space, also reflected on GSA Form 1364. Lines 28 through 32 list ownership charges (taxes, insurance, reserves for replacement, etc.) that are not subject to CPI escalations, but are subsumed in the shell rate. This form should be thoroughly reviewed for full and fair allocation of utilities and services.

#### Representations and Certifications

Except as noted below, GSA Form 3518, which addresses socioeconomic and other statutory requirements associated with Government contracts, through offeror representation and/or self-certification, has been replaced with an electronic version in the System for Award Management. The only exception is disaster leases, which will still require the paper version of GSA Form 3518. The electronic version (or the paper copy, if applicable) must be completed in its entirety, including the following critical elements:



Part 4: Pre-Negotiation/Negotiations Process

3. Screening Offers Received and Subsequent Negotiations

Offerors represent on this form whether they are classified as a small or large business within the threshold applicable to GSA leases in the North American Industry Classification System (NAICS) code.

Note: The NAICS code applicable to GSA leases is 531120 as issued by the Small Business Administration (SBA), Interim Rule, effective July 14, 2014. The SBA further defines a small business as one (including its affiliates) organized for profit, independently owned and operated, not dominant in the commercial lease market, and that has average annual gross receipts below current NAICS thresholds for the 3 preceding fiscal years. The current threshold can be found on the SBA web site at http://www.sba.gov/content/small-business-size-standards.

- Offerors identified as other than small businesses are required to submit small business subcontracting plans for contracts having a gross value of \$700,000 over the lease term, including renewal options (FAR 19.704). (The small business subcontracting plan requirement is discussed further below in paragraph 5.3.a.)
- All offerors must identify their ownership structure (corporation, partnership, etc.) and provide the corresponding Tax Identification Number (TIN). Additionally, all offerors must register with Dun & Bradstreet, Data Universal Numbering System (DUNS).
- In addition to filling out the online Representations and Certifications completed as part of SAM registration, offerors must complete GSA Form 3518-SAM, Addendum to the Systems for Award Management (SAM) Representations and Certifications (Acquisition of Leasehold Interests in Real Property). This form incorporates by reference all of the applicable representations and certifications that are input by offerors through the SAM application, and it contains a mandatory representation (GSAR 552.203-72) not currently available in the SAM application.
- Lease Contracting Officers must include a copy of the Addendum to the SAM Representations and Certifications in the lease. Disaster leases will continue to include the GSA Form 3518 or 3518A as part of the lease.
- Lease Contracting Officers must verify that the offeror has obtained a valid DUNS number and is registered in SAM before final proposal revisions.
  - Leasing Specialists must include in negotiations a discussion with offerors emphasizing the requirement to register with Dun and Bradstreet and in SAM and provide website information (http://fedgov.dnb.com).
  - Leasing Specialists must review the representations and certifications made by offerors in SAM (for example, the small business certification may warrant a need to obtain a subcontracting plan), document this review in the lease file.

#### **Purpose Matters**

When reviewing an offeror's SAM registration, look for "Purpose of Registration" to confirm that entity has selected "All Awards." Entities who are listed their purpose as "Federal Assistance Awards Only" must revise their registration.

<sup>&</sup>lt;sup>2</sup> Small Business Administration, Interim Final Rule, effective July 14, 2014 (Date Posted: Jun 12, 2014; RIN:3245-AG60; CFR:13 CFR Part 121; Federal Register Number:2014-12868)

#### Part 4: Pre-Negotiation/Negotiations Process



\$\times\$ 3. Screening Offers Received and Subsequent Negotiations

- Leasing Specialists must include a copy of the SAM-generated representations and certifications in the lease file.
- Leasing Specialists must also use SAM to confirm that offerors are not excluded from receiving federal contracts.
- Acceptable information must be for the owner of record; therefore, the Leasing Specialist must verify the validity and consistency of the information as compared with the owner of record in the offer. The Leasing Specialist must not accept without question information pertaining to a parent company or umbrella corporation. Leasing Specialists should inform offerors that SAM registration requires annual updating in order to maintain an active status for award eligibility.
- Federal law prohibits contracting with corporations that have an unpaid Federal tax liability or a felony conviction under Federal law. The Addendum to the SAM Representations and Certifications includes a representation that offerors must complete to state whether these potential disqualifications apply.
- **Exception:** The paper version of GSA Form 3518, Representations and Certifications, is required only for disaster leases.

When completion of the paper form is necessary, this form must be signed and dated by a person having authority to bind the offeror.

#### GSA Form 12000 Pre-Lease Fire Protection and Life Safety

Unless the space meets certain exceptions, offerors are required to submit information addressing fire and life safety requirements. The submittal requirements and exceptions are further outlined under Appendix D of the Desk Guide.

#### **Energy Independence and Security Act**

The Energy Independence and Security Act (EISA)—a statutory requirement—established energy efficiency standards. It prohibited the federal government from entering into a contract to lease space in a building that did not earn an Energy Star label in the most recent year (restated in the RLP package as within one year prior to the due date of final proposal revisions). All new construction (buildings specifically built as a result of the Government's lease) must achieve an Energy Star label within 18 months after occupancy by the Government.

There are statutory exceptions to this requirement:

- No Space is offered in a Building with an ENERGY STAR® Label that meets RLP requirements, including locational needs;
- The agency will remain in a building it currently occupies
- The lease will be in a building of historical, architectural, or cultural significance listed or eligible to be listed on the National Register of Historic Places; or
- The lease is for 10,000 rentable square feet or less.

For leases that fall within these exceptions, offerors are required to make energy efficiency and conservation improvements that are cost-effective over the term of the lease and, if awarded the lease, must measure the space's energy efficiency against a nationally-recognized benchmark



Part 4: Pre-Negotiation/Negotiations Process

3. Screening Offers Received and Subsequent Negotiations &

and meet certain energy consumption information disclosure requirements. They are not required to achieve an Energy Star label, although the Energy Star label is encouraged. If the Lessor obtains an Energy Star label no more than 12 months before the due date for final proposal revisions, the requirement for cost-effective energy efficiency and conservation improvements is negated.

Energy Star requirements do not apply to land leases, rooftop antenna leases, on-airport leases, or parking leases. Additional information is available at <a href="http://www.gsa.gov/portal/content/103656">http://www.gsa.gov/portal/content/103656</a> under Green Lease Policies and Procedures, under part 5.3.a of this chapter, and in Chapter18, Sustainability.

#### **Financial Capability**

Offerors are also required to demonstrate that they have the financial capability to perform the requirements in the lease, by presenting at least a conditional commitment of funds in an amount necessary to prepare the space. This commitment is a critical factor in the Lease Contracting Officer's determination of offerors' financial responsibility, discussed further in Part 5: Award Determination.

#### **Additional Submittals**

In addition to those items identified above; offerors must submit:

- seismic form(s), if required (see Appendix G for more information);
- security unit price list, if required (see Chapter 19 for more information);
- tax information;
- evidence of compliance with zoning laws for the intended use of the space,
- evidence of ownership or control of the building or site;
- evidence demonstrating that amenities do or will exist,
- a parking plan, if required (see Appendix H);
- and architectural plans for modernization, if the offered building does not meet the requirements of the lease paragraph "Quality and Appearance of Building."

These items are more fully described in the RLP.

The process of examining offers to make sure they are responsive and competitive may involve communications with offerors under the guidelines of FAR 15.306. Be sure to understand the difference between "clarifications," "communications," and "negotiations/discussions" (see below under "Final Proposal Revision"). While the Leasing Specialist and broker are authorized to negotiate with offerors, the Lease Contracting Officer has overall responsibility for negotiations. Neither the Leasing Specialist nor the broker may commit the Government to a particular offer or give the appearance of accepting an offer. Only the LCO is authorized to accept an offer and bind the Government.

Part 4: Pre-Negotiation/Negotiations Process



🖔 3. Screening Offers Received and Subsequent Negotiations

Review each offer concerning the handling of services and utilities. Except for warehouse leases, fully serviced leases are preferred, and Leasing Specialists must encourage them as appropriate. The ramifications of accepting less than fully serviced leases should be given serious consideration before proceeding with negotiations on a less than fully serviced lease. Such offers are considered non-responsive when the RLP does not allow for alternate offers or non-fully-serviced offers.

#### **Debarred or Suspended Bidders**

GSA must also determine that each offeror is eligible for participation in Federal contracts. The functionality of the Excluded Parties List System (EPLS), an electronic database of identified vendors excluded from doing business with the Government, has been consolidated into the SAM Exclusions Extract (available at <a href="www.sam.gov">www.sam.gov</a> SAM Home > Data Access > Exclusion Interfaces). The SAM Exclusions Extract contains a list of all currently open exclusions in SAM and identifies entities that are in some way restricted from doing business with the Federal Government. It is important that the user reviewing SAM records to determine Federal award eligibility closely read the language present on each exclusion record describing the nature (cause) and effect to determine applicability for their planned award. Leasing Specialists must check SAM at least twice: after receiving offers, and before award.

In addition, Leasing Specialists must verify the offeror's statements appearing in the electronic version of representations and certifications in SAM under paragraph "FAR 52.209-5: Certification Regarding Responsibility Matters." To preclude the possibility of mistaken identity, if an offeror is listed in SAM as a Department of Treasury Specially Designated National (SDN), the Lease Contracting Officer must, through approved regional channels, contact the Office of Leasing, which will coordinate with the Office of General Counsel to determine whether the bidder is the entity actually excluded.

#### b. "Discussions" versus "Clarifications"

It is important to understand the distinction between "discussions" (or "negotiations") and clarifications—they are not the same.

Discussions—The term "discussions" is synonymous with "negotiations." Negotiations are exchanges, in either a competitive or sole source environment, between the Government and offerors, that are undertaken with the intent of allowing the offeror to revise its proposal. When negotiations are conducted with offerors in a competitive acquisition. they take place after establishment of the competitive range and are called discussions. These discussions may, at the Lease Contracting Officer's discretion, result in the offeror being allowed to revise its proposal. However, the terms "negotiations" and "discussions" are used synonymously in GSA lease documents and may be used interchangeably. As further defined in FAR 15.306(d), such negotiations can include bargaining—which encompasses persuasion, altering assumptions and positions, and give-and-take—and can apply to price, schedule, technical requirements, the type of contract, or other terms of the proposed contract. Discussions occur when the Government communicates with an offeror for the purpose of obtaining information essential for determining the acceptability of a proposal, or when the Government gives the offeror an opportunity to revise or modify its proposal in some material way. When GSA conducts discussions with one offeror, it must conduct discussions with all offerors in the competitive range. At minimum, notify each offeror of any significant weaknesses or deficiencies or both in the proposal.



Part 4: Pre-Negotiation/Negotiations Process

3. Screening Offers Received and Subsequent Negotiations &

• Clarifications—In contrast, FAR 15.306(a) defines "clarifications" as limited exchanges between the Government and offerors that may occur when it is contemplating award without discussions. Examples could include clarifying the relevance of past performance information or adverse past performance information to which the offeror has not previously had an opportunity to respond (past performance), or resolving minor or clerical errors. Offerors may clarify their proposals verbally or in writing; however, any such clarifications must be reflected in the lease contract. Clarifications may not be used to cure proposal deficiencies or material omissions, materially alter the technical or cost elements of the proposal, or revise the proposal.

The test is whether an offeror has been given an opportunity to revise or modify its proposal. Communications that do not permit an offeror to revise or modify a proposal, but request that the offeror confirm what the offeror has already committed to do in its proposal, are clarifications and not discussions.

In addition, the term "communications" can refer to exchanges between the Government and offerors, after receipt of proposals, leading to establishment of the competitive range. GSA may conduct the exchange of communication (in lowest price technically acceptable procurements) to clarify ambiguities. Such communications must address adverse past performance information to which an offeror has not had a prior opportunity to respond. Note that offerors are not permitted to amend an offer as a result of such communications.

## c. Determining Competitive Range

In accordance with the FAR, all proposals must be evaluated, and the Lease Contracting Officer must establish a competitive range. As stated in the mandatory RLP paragraph "Negotiations."

The competitive range will be established by the LCO based on cost or price and other factors (if any) that are stated in this RLP and will include all of the most highly rated proposals, unless the range is further reduced for purposes of efficiency.

The Lease Contracting Officer may exclude from the competitive range those offers that are not among the most highly rated. There must be a reasonable basis to support this decision. A competitive range should be established for all procurements in which GSA wishes to conduct discussions (negotiations). The discussions or negotiations must be conducted with each offeror in the competitive range and must address deficiencies, significant weaknesses, and adverse past performance information to which the offeror has not yet had an opportunity to respond. The competitive range may encompass all offers received, if appropriate.

GSA must negotiate with all offerors whose offers fall within the competitive range. If the Lease Contracting Officer intends to negotiate with all offerors, then the lease file must document that all offers were found to be within the competitive range.

The Lease Contracting Officer eliminates from consideration offers that do not fall within the competitive range in acquisitions using either the best value trade-off or lowest priced technically acceptable approach. The Lease Contracting Officer must notify in writing offerors whose offers fall outside the competitive range.

Besides identifying competitive offers, the competitive range also establishes an initial baseline for judging the reasonableness of cost or price estimates. Armed with this information, the Lease Contracting Officer can begin to prepare for negotiations.

Part 4: Pre-Negotiation/Negotiations Process

\$3. Screening Offers Received and Subsequent Negotiations



## d. Conducting Negotiations

As offers are evaluated for completeness and accuracy, some issues must be dealt with immediately. If an offeror in the competitive range clearly made an error or omitted important information from the offer, the Leasing Specialist must contact the offeror and request a corrected submission of the forms or data by a set date. The Leasing Specialist must list errors and omissions for each offeror and these must be addressed during discussions. Leasing Specialists or broker contractors must conduct independent negotiations with each offeror in the competitive range and advise offerors orally or in writing of significant weaknesses and deficiencies in their offers.

All offerors found to be in the competitive range must be given a reasonable opportunity to submit any cost or price, technical, or other revisions to their offer that

may result from the negotiations. Negotiations will be closed with submission of final proposal

#### Weakness? Or Deficiency?

Weakness-a flaw that increases the risk of unsuccessful contract performance

Significant weakness—a flaw that appreciably increases the risk of unsuccessful contract performance

Deficiency—a material failure to meet a Government requirement or a combination of significant weaknesses that increases the risk of unsuccessful contract performance to an unacceptable level

Negotiations should be based on three general types of analysis:

- Price analysis—a comparison of the offeror's prices to something external to the proposal. Example: total rental rate compared to market rates.
- Offer cost review—evaluating on an elementby-element basis the costs supporting the proposal. For example: shell rate, parking rates, fees, amortization rates, and concessions offered on GSA Form 1364, the operating costs listed on Form 1217, or land and construction costs provided for lease construction projects.

#### **Quick Tip**

Make sure the person filling out and signing the form has authority to do so and can enter into negotiations. This authority can be confirmed from broker agreements, bylaws or articles of incorporation that outline authorities, written statements from owners, and other such sources.

Technical analysis—comparison of the offeror's technical proposal to the specifications and requirements, in addition to the non-price-related award factors if included in the RLP. (See Chapter 13 on source selection.)

A primary goal of negotiations is to confirm that offers received comply with the requirements stated in the RLP. A great deal of communication with the offeror centers on determining whether submitted proposals comply with the RLP. Alternative proposals may be considered if allowed by the RLP and it is determined that they meet the intent of the RLP and customer's requirements. If an alternative proposal is acceptable, the Leasing Specialist must contact the Office of Regional Counsel to discuss how material the change is and whether an amendment to the RLP is needed to allow all offerors to compete on the alternative basis.

revisions.



Part 4: Pre-Negotiation/Negotiations Process

3. Screening Offers Received and Subsequent Negotiations

Alternative offers may be received that amend the General Clauses. If such offers are received, the Lease Contracting Officer must determine, in consultation with the Office of Regional Counsel, if the changes are in the Government's best interest and are allowable by law. If it is determined that allowable changes are in the best interest of the Government, the Lease Contracting Officer must amend the RLP to allow all offerors to offer on the same amended General Clauses. If it is determined that the changes are not to be allowed, the Lease Contracting Officer must advise the offeror that failure to conform to the General Clauses without change is unacceptable and that the offer will be deemed ineligible for award for failure to meet the requirements of the RLP. Material changes made in the final proposal revision may be detrimental to the offeror and must be reviewed with the Office of Regional Counsel.

A further important goal is to ascertain that the offered rate and corresponding elements of the proposal are fair and reasonable.

Keep in mind that minor items should not be allowed to hold up the negotiations (see FAR 15.405(b)). Rather than letting a single issue stall the entire process, look at the overall rate the Government will pay, to determine whether the overall offer remains fair and reasonable.

#### **Best Practices in Negotiating**

Skillful negotiation is an art that grows with experience. It is essential to know the market, have clearly defined negotiation objectives, and have a planned strategy to achieve the objectives. Several established best practices will guide the Leasing Specialist or Lease Contracting Officer during negotiations. Make use of these techniques:

- The Leasing Specialist must understand the RLP and Lease, the agency requirements, and the offer process and be prepared to explain them to offerors as needed.
- Plan and conduct meetings with offerors professionally and efficiently. Make an
  appointment with each offeror, allowing at least an hour. Negotiations can be held via
  phone, in writing, or in person.
- Ask questions and engage in "active listening." Request supporting documentation.
- Confirm that the offeror knows that a proposal that does not meet a minimum requirement will be ineligible for award.
- Make sure all discussions are documented for each offeror, and follow up with each offeror in writing. Obtain clarifications, changes, and concessions in writing.
- For competitive actions, there can be no final agreement until you have requested final proposal revisions from all offerors and negotiations are closed.

#### **Negotiating Practices Prohibited in the FAR**

Several approaches or practices must be avoided. Do not engage in any practices prohibited by FAR 15.306(e), which forbids:

Favoring one offeror over another.

Part 4: Pre-Negotiation/Negotiations Process

5 4. Final Proposal Revision



- Revealing an offeror's technical solution, including unique technology, innovative and unique uses of commercial items, or any information that would compromise an offeror's intellectual property to another offeror.
- Revealing an offeror's price without that offeror's permission. The Lease Contracting Officer may inform an offeror that its price is considered by the Government to be too high, or too low, and may reveal the results of the analysis supporting that conclusion. Any determination that an offer is too high or too low <u>must be made relative to the market</u>, not in comparison to other <u>offers received</u>. It is also permissible, at the Government's discretion, to indicate to all offerors the cost or price that the Government's price analysis, market research, and other reviews have identified as reasonable (41 U.S.C. 423(h)(1)(2)).
- Revealing the names of individuals providing reference information about an offeror's past performance.
- Knowingly furnishing source selection information in violation of FAR 3.104 and 41 U.S.C. 423(h)(1)(2).

#### **Avoiding Pitfalls**

To preserve procurement integrity, Leasing Specialists must never reveal the number of offerors or the other prices being offered in an attempt to "auction" the award. Leasing Specialists have a fiduciary responsibility to our client and the taxpayers to thoroughly negotiate each aspect of an offeror's proposal to provide the best value to the Government.

# 4. Final Proposal Revision

After conducting negotiations, the Lease Contracting Officer should conduct a pre-award Lease Cost Relative to Market (LCRM) assessment, when applicable, before calling for final proposal revisions. The LCRM is a longstanding PBS measure used to assess office lease transactions against industry market data from sources contained in the Bullseye Report or other sources such as SIOR, Reis, or others that PBS determines valid and acceptable for comparative use. Once this assessment is complete, Lease Contracting Officers will send offerors a request for final proposal revisions. The G-REX system will generate a draft letter requesting final proposal revisions that can be modified as appropriate. Before sending out the request, the Lease Contracting Officer should have at least one responsive offer.

The final proposal revision is the last opportunity for offerors to revise their proposals before award. After the deadline for final proposal revisions, no further negotiations are allowed with the offerors—only clarifications to achieve an accurate understanding.

Part 5: Award Determination

4. Final Proposal Revision  $\not\subset$ 

# **Part 5: Award Determination**

1. Overview	2.5-2
2. Reviewing Final Offers	2.5-3
a. Present Value Analysis	2.5-4
b. Historic Preference	2.5-4
c. HUBZones	2.5-5
d. Revise Scoring Analysis	2.5-7
3. Final Steps Before Award	2.5-7
a. Pre-award Requirements	2.5-7
b. Responsibility Determination	2.5-9
c. Price Negotiation Memorandum (PNM)	2.5-10
d. Recommendation Letter and OA	2.5-12
e. Obtaining and Amending RWAs	2.5-12
f. BA53 Funds Certification	2.5-13
g. Pre-Award Legal Review	2.5-14
4. Assemble Lease Contract Documents	2.5-14
5. Lease Award Process	2.5-15
a. Successful Offer	2.5-15
b. Notify Unsuccessful Offerors	2.5-16
c. FedBizOpps Synopsis of Award	2.5-16
d. Debriefing/Protests	2.5-17
e. Distribution of Lease Copies	2.5-18
f. Post-Award Notifications	2.5-18

Part 5: Award Determination

∜ 1. Overview



# 1. Overview

This chapter explains the steps for determining the successful offer and awarding the lease contract.

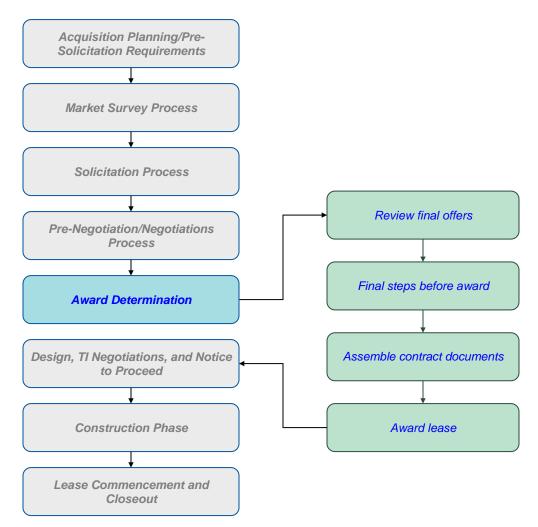
Upon receipt of final proposal revisions, GSA completes a final analysis and ranks offerors using the criteria specified in the RLP. Several pre-award requirements are reviewed that deal with the small business subcontracting plan (if required), equal employment opportunity compliance, affirmative action plan for the disabled, and the excluded parties list in SAM. GSA assembles all of the lease contract documents. Once they are executed by GSA and the Lessor, unsuccessful offerors are notified, and a synopsis of the lease award is published on FedBizOpps.

These steps are shown in the flow chart below. Each step label is linked to the section that discusses the topic.



2. Reviewing Final Offers &

#### Successful Offer and Award Determination Process



# 2. Reviewing Final Offers

This step produces documentation for Lease File Tabs 5, Unsuccessful Offer(s), and 6, Successful Offer and Award Determination.

If using the best-value tradeoff method, the LCO should follow the guidance in Chapter 13, Source Selection. The LCO must:

- Evaluate offers solely in accordance with the factors and subfactors stated in the RLP.
- Evaluate prices and document the lease file to demonstrate that the proposed contract price is fair and reasonable.

Part 5: Award Determination

\$\times\$ 2. Reviewing Final Offers



Note that while the calculations and analysis described below may be performed by the Leasing Specialist or broker, the LCO is ultimately responsible for confirming the accuracy of the price evaluation.

## a. Present Value Analysis

The purpose of the present value analysis (PVA) is to compare unequal rent streams among offers to determine the lowest offer. The present value amount provides a single cost

representation of various rent streams, variations in operating costs, lump sum payments, amortizations, and TI overhead costs that allows the Government to understand the true price of all offers in today's (present value) dollars.

#### **Calculating PVA**

The PVA calculation compares offers based on an ANSI/BOMA Office Area square foot rate with standard discount and escalation assumptions. Except for the Automated Advanced Acquisition Program (AAAP), the

#### **Abstract of Offers**

The abstract of offers is automatically updated and generated by the system as the Leasing Specialist works through the process. Data inputs during this phase feed directly into the present value analysis (PVA) discussed in this section.

Leasing Specialist and broker contractor should always use either the G-REX PVA calculator to create a permanent record of the offers within G-REX or the manual PVA calculator posted on the Office of Leasing Google site.

#### **Applying Price Preferences**

When the historic and/or HUBZone price preferences described below apply, the Government first computes the PVA of all offered prices based on the annual price per ABOA SF, including all required option periods. Then the Leasing Specialist performs a further evaluation of the offers to apply the pertinent price preference. Different methods are used to apply the historic and HUBZone price preferences. The historic price preference is calculated as a reduction in the PVA for the historic property (either 10 or 2.5 percent, depending upon the circumstances), whereas the HUBZone price preference is calculated as a 10 percent increase in the PVA of the non-small business offerors. It is important to recognize that these price preferences are used for price evaluation purposes only, and the terms of the awarded lease contract are based on the offered price.

In a leasing scenario where both the historic and HUBZone price preferences come into play, GSA must apply the historic preference first before applying a HUBZone price preference.

#### **b.** Historic Preference

#### **Price Preference for Historic Properties**

The Government will compute historic property price evaluation preferences by reducing the prices of the offerors qualifying for a price evaluation preference by the applicable percentage. The price evaluation preference will be used for price evaluation purposes only. The Government will award a contract in the amount of the actual price proposed by the successful offeror and accepted by the Government. Per FMR part 102-83, the historic price preference does not apply when procuring space in rural areas.



Part 5: Award Determination

2. Reviewing Final Offers &

To qualify for a price evaluation preference, offerors must provide satisfactory documentation in their offer that their property qualifies as one of the following:

- 1. A historic building within a historic district.
- 2. A non-historic building within a historic district.
- 3. A historic building outside a historic district.

#### **Evaluating Historic Price Preference**

The Government gives a price preference to historic property, based on the total annual square foot (ANSI/BOMA Office Area) cost to the Government. This preference is calculated as a reduction in the PVA for the historic property as follows:

- 1. First to suitable historic properties within historic districts, a 10 percent price preference.
- 2. If no suitable historic property within a historic district is offered, or the 10 percent preference does not result in such property being the lowest price technically acceptable offer, the Government gives a 2.5 percent price preference to suitable non-historic developed or undeveloped sites within historic districts.
- 3. If no suitable non-historic developed or undeveloped site within a historic district is offered, or the 2.5 percent preference does not result in such property being the lowest price technically acceptable offer, the Government gives a 10 percent price preference to suitable historic properties outside historic districts.
- 4. Finally, if no suitable historic property outside historic districts is offered, no historic price preference is given to any property offered.

#### c. HUBZones

The HUBZone Act of 1997 established the HUBZone program to increase employment opportunities, investment, and economic development in low-income metropolitan and rural areas. In addition, its goal is to encourage small businesses to relocate and employ people in low-income, economically distressed areas by allowing qualified small business concerns (SBCs) to receive a preference in bidding on federal government contracts.

GSA initially held that the HUBZone Act did not apply to leasing, but a 2012 decision by the Government Accountability Office determined that it does apply. GSA now applies the price preference in all competitive lease procurements.

The HUBZone price preference is applicable to all competitive lease procurements. The price evaluation preference will be used for price evaluation purposes only. The Government will award a contract in the amount of the actual prices proposed by the successful offeror and accepted by the Government.

#### **HUBZone Price Preference**

After determining the present value cost per ABOA square foot of each offer, if award is proposed to a non-small business offeror, and there exists as part of the procurement another technically

Part 5: Award Determination

\$\times\$ 2. Reviewing Final Offers



acceptable proposal submitted by a responsible offeror that is a qualified HUBZone small business concern (SBC) that has not waived its entitlement to a price evaluation preference, the evaluated price of the non-small business offeror's proposal is increased by 10 percent, solely for the purpose of determining whether award should be made to the HUBZone SBC offeror. In such a case, the proposals of the apparently successful non-small business offeror and the HUBZone SBC offeror are considered in light of the applied price preference, and award is made to the lower priced offer. The Lease Contracting Officer must document application of the price preference and further consideration of the offers as described here.

#### Waiver of HUBZone Price Evaluation Preference

A HUBZone SBC offeror may elect to waive the price evaluation preference provided in price evaluation sections of the various RLPs. In such a case, no adjustment to the price is made as a result of it being a HUBZone SBC, and the performance of work requirements set forth in Section 1 of the lease are not applicable to a lease awarded to the HUBZone SBC offeror under the solicitation.

#### **Negotiations**

Before eliminating an offeror that is a HUBZone SBC and has not waived its entitlement to a price evaluation preference from the competitive range, the Lease Contracting Officer must adjust the evaluated prices of all non-small business offerors proposed for inclusion in the competitive range by increasing the prices by 10 percent, for purposes of determining the competitive range only, and then determine, in writing, whether the HUBZone SBC offeror should be included or excluded from the competitive range. Offerors who are not included in the competitive range must be immediately notified in writing.

#### **HUBZone Certification**

If the Lessor is a HUBZone SBC that did not waive the price evaluation preference, the Lessor must provide a certification within 10 days after lease award to the Lease Contracting Officer (or representative designated by the Lease Contracting Officer) that the Lessor was an eligible HUBZone SBC on the date of award. If it is determined within 20 days after award that a HUBZone SBC offeror that has been awarded the lease was not an eligible HUBZone SBC at the time of award, and the HUBZone SBC Lessor failed to provide the Lease Contracting Officer with information regarding a change to its HUBZone eligibility **before** award, then the lease is subject, at the Lease Contracting Officer's discretion, to termination, and the Government is relieved of all obligations to the Lessor in such an event and not be liable to the Lessor for any costs, claims, or damages of any nature whatsoever.

#### Performance Requirements of Lessors Claiming HUBZone Price Preference

If the Lessor is a HUBZone SBC that did not waive the price evaluation preference, then the HUBZone SBC must spend at least 50 percent of the cost of the contract incurred for personnel on its own employees or employees of other qualified HUBZone SBC's and must additionally meet the performance of the work requirements for subcontracting in 13 CFR 125.6. If the Lessor is a HUBZone joint venture, the aggregate of the qualified HUBZone SBCs to the joint venture, not each concern separately, must perform the applicable percentage of work required by the Small Business Administration regulations.

For further information regarding HUBZone price preference, including leasing scenarios, refer to LAC 2012-01.

Part 5: Award Determination

3. Final Steps Before Award &

## d. Revise Scoring Analysis

The Leasing Specialist must initiate and receive the final scoring analysis from the Portfolio group before award. Revisions must be made to the Part 1 worksheet if information has changed since the initial scoring was performed, and the approved worksheet must be uploaded to G-REX. BA53 funds certifications that are required before award will not be granted unless the final scoring approval has been obtained. See Appendix F of the Leasing Desk Guide for additional guidance.

# 3. Final Steps Before Award

This section will result in documentation required for Lease File Tabs 5 and 6.

Once the successful offeror has been determined, the Leasing Specialist must coordinate several actions.

## a. Pre-award Requirements

Once an apparent successful offeror has been identified, the Leasing Specialist must coordinate several pre-award requirements.

#### **Small Business Subcontracting Plan**

Small business subcontracting plans are required only for large businesses (see previous discussion under Part 4, paragraph 3.a regarding Representations and Certifications). If

applicable, the Leasing Specialist should confirm that there is an approved small business subcontracting plan in place before award.

Offerors self-certify on the electronic version of the annual representations and certifications completed as part of the System for Award Management registration or GSA form 3518D or 3518A, if applicable, whether they are a small or

#### **Thresholds**

Small business subcontracting plans are required only for lease procurements with an aggregate contract value of \$700,000 or more.

large business, according to their dollar volume of business and volume of production. For leases, GSAM 570.102 defines a small business as a concern, including affiliates, that:

- Is organized for profit;
- Is independently-owned and operated;
- Is not dominant in the field of leasing commercial real estate; and
- Has average annual gross receipts for the preceding 3 fiscal years which are less than the size standard established by the Small Business Administration pursuant to 13 CFR Part 121.

Part 5: Award Determination

🖏 3. Final Steps Before Award



The size standards may be found at <a href="http://www.sba.gov/content/small-business-size-standards">http://www.sba.gov/content/small-business-size-standards</a>. For most lease procurements, the NAICS code is 531120.

Note that, once the lease is awarded, the Lessor must submit compliance documentation, as discussed under Part 7 of this Desk Guide chapter.

#### Floodplain Check

During the earlier market survey phase, the Leasing specialist should have checked initially to determine whether the overall delineated area falls within a floodplain. Now, while reviewing offers during pre-award, the Leasing Specialist should also perform a second similar check to ascertain whether the specific properties offered are located within a floodplain.

#### **Energy Independence and Security Act Compliance**

Pursuant to the Energy Independence and Security Act of 2007 (EISA), not later than the deadline for final proposal revisions, offerors must submit evidence of having earned the Energy Star label in the 12 months prior to Final Proposal Revisions, unless the offered space meets one of several statutory exceptions to the requirement. If the offered space meets one of these exceptions and has not earned an Energy Star label, the offeror must submit a written statement identifying cost-effective energy efficiency and conservation improvements that will be made. The possible specific, recommended cost-effective improvements could include upgrades to lighting, chillers, HVAC systems, plumbing, or windows, among others. If no improvements can be made, the offeror must demonstrate in writing to the Government why no energy efficiency and conservation improvements would be cost-effective. Leasing Specialists must include offered cost effective improvements in the lease contract. In addition, lessors whose buildings without an Energy Star label must measure the space's energy efficiency against a nationally-recognized benchmark and meet certain energy consumption information disclosure requirements. See Leasing Desk Guide Chapter 18, Sustainability and Environmental Considerations, and Leasing Alert titled "EISA Related Revisions to Global, Simplified, Small (3626), and Warehouse RLPs and Leases," for further information on these requirements.

#### **Equal Employment Opportunity Compliance Review**

GSA Forms 3517B and 3517D contain EEO compliance provisions that pertain to Federal leases. Department of Labor regulations (41 CFR 60) require contractors to develop a written affirmative action program for each of their establishments. They must analyze and document minority group representation in all job categories, hiring practices during the past year, and employee upgrading and promotion during the past year.

If the contemplated award is less than \$10 million and the offeror has certified compliance with the EEO requirements, the Lease Contracting Officer may consider the offeror responsible as to nondiscrimination. If the award will be greater than \$10 million, GSA must submit the following information to the appropriate Department of Labor regional Office of Federal Contract Compliance Programs (OFCCP), as listed on its web page at <a href="http://www.dol.gov/ofccp/contacts/regkeyp.htm">http://www.dol.gov/ofccp/contacts/regkeyp.htm</a>:

- Names, addresses, and telephone number of the offeror and each known subcontractor;
- Name and telephone number of the person signing the offer;
- · Dollar amount of the offer;

Part 5: Award Determination

3. Final Steps Before Award 🗸

- Proposed contract and RLP number;
- Date when the final offer will expire; and
- Date by which the Lease Contracting Officer must receive advice from the OFCCP in order to award a valid and binding contract. Note, the OFCCP must respond within 15 days from the date of notification or approval can be assumed.

The OFCCP will review the available information on the prospective prime contractor's compliance status and will notify the Lease Contracting Officer or approving officer of any deficiencies.

The Lease Contracting Officer will notify the offeror of any deficiencies found and direct the offeror to coordinate further action with the OFCCP. The contract cannot be awarded unless the OFCCP notifies the Lease Contracting Officer that the offeror has responded or has agreed to respond satisfactorily to the OFCCP requirements.

## b. Responsibility Determination

A lease contract may be awarded only to an offeror found to be "responsible." Before awarding a lease contract, the Lease Contracting Officer must make a determination as to whether offerors have the financial resources, organizational capability, and legal eligibility to perform during the lease.

#### Responsibility Criteria and Standards—General

The determination of financial responsibility is the first of several components that establish whether an offeror is responsible. General responsibility criteria and standards are stated in GSAM 509.105, 570.108 and FAR 9.104. To be considered responsible, an offeror must:

- have adequate financial resources;
- be able to comply with the delivery or performance schedule;
- have a satisfactory record of past performance;
- have a satisfactory record of integrity and business ethics;
- have the necessary organization, experience, accounting and operational controls, and technical skills;
- have the necessary production, construction, and technical equipment and facilities; and
- be otherwise qualified and eligible to receive an award.

#### **Financial Responsibility**

To be determined financially responsible, the offeror must have adequate financial resources to perform the contract, or the ability to obtain them. A signed letter on bank letterhead from a third-party bank official is a common source document and will suffice for establishing financial responsibility. For significant procurements, the process may involve reviewing a company's

Part 5: Award Determination

🖏 3. Final Steps Before Award



general business information, financial statements (identifying issues or areas for questions), and other financial metrics.

Another potential source of information is the Pre-award Survey of a Prospective Contractor—General (SF-1403), which can be submitted to the GSA Financial Information Control Branch. The form is not tailored to a lease acquisition, and some sections will not apply. The Leasing Specialist should provide estimated annual and total contract value on the form and any other financial information that would be useful to the finance office. The current version of the SF-1403 can be downloaded from the GSA Forms Library.

For major procurements, the LCO may want to consider obtaining the following information:

- Cash assets:
- Accounts receivable (monies owed the offeror);
- Cash value of all inventories;
- Worth of real property (land and improvements) and equipment owned by the offeror; and
- Current liabilities, including offeror debts, stockholders equity, or amount of stock held by shareholders, and retained earnings to be reinvested back into the company.

If an offeror is found to be non-responsible, that determination must be documented in the lease file and the offeror must be notified of the basis in writing.

It is important to remember that the Lease Contracting Officer's signature on the contract is legally deemed to be an affirmative determination that the offeror has been found financially responsible.

#### SBA Verification—Certificate of Competency

Another concern is whether a small business is competent to perform the services that the lease requires. For example, a small business firm may be the low offeror in terms of price, but the Lease Contracting Officer may judge that it lacks the capacity, or some other element of responsibility, to fulfill the acquisition, and therefore would not be awarded the contract. If the Lease Contracting Officer finds a small business concern nonresponsible, the procedures at FAR 19.6 apply and the Lease Contracting Officer must notify the SBA, which would then review the small business's responsibility. If the result is favorable, the SBA issues a certificate of competency that in effect reverses the Lease Contracting Officer's decision regarding the prospective contractor's lack of responsibility.

# c. Price Negotiation Memorandum (PNM)

This step produces documentation for Lease File Tab 6 under Price Negotiation Memorandum.

A price negotiation memorandum (PNM) is prepared by the Leasing Specialist or broker contractor. It is required for all lease actions, including post-award TIs. The PNM should reflect an accurate record of all negotiations with each offeror. It summarizes negotiations and explains why an award was or was not made, including go/no-go factors (floodplains, SAM) and other award considerations (seismic, Energy Star). Anyone reading the document should be able to



Part 5: Award Determination

3. Final Steps Before Award &

understand the issues of negotiation and the outcomes, whether the offer was fair and reasonable, and the basis for that determination.

A sample PNM can be found on the GSA Office of Leasing Google site or in Appendix C. GSA Form 3628, Lease Action Summary, may also be used to document negotiations for leases under the simplified lease acquisition threshold, emergency FEMA leases, and parking leases.

The PNM documentation must include the following:

- The purpose of the negotiation.
- A description of the acquisition, including appropriate identifying numbers (e.g., RLP number). The description of the project should be the goal (extension, new/replacing, succeeding, etc.).
- A summary of the contractor's proposal, any field pricing assistance recommendations, including the reasons for any pertinent variances from them, the Government's negotiation objective, and the negotiated position. When determination of price reasonableness is based on price analysis, the summary should include the source and type of data used to support the determination. Where the determination of price reasonableness is based on cost analysis, the summary should address each major cost element, the major deficiencies with the original offer and how they were addressed. Additionally, the Leasing Specialist should include rate changes and critical changes for every iteration of the offer.
- Modifications created in accordance with RLP amendments.
- The most significant facts or considerations controlling the establishment of the negotiation objectives and the negotiated agreement, including an explanation of any significant differences between the negotiation objective and the agreement.
- The Lease Contracting Officer's signature and date, even if the PNM is prepared and also signed by the broker contractor. Digital approval signatures are permissible for these documents.

### **Documentation of Fair and Reasonable Pricing**

The LCO must document in the PNM whether prices are fair and reasonable by comparing the apparent successful offer against:

- Competing offers received in response to the RLP;
- Negotiation objectives, and
- Any other information not captured during the negotiation objectives process, including Lease comparables (private sector or GSA lease rates).

The PNM must state definitively that there has been a determination of fair and reasonable pricing, which is an inherently governmental responsibility.

Part 5: Award Determination

🖏 3. Final Steps Before Award



### **Legal Review of PNM and Source Selection Documents**

Pre-execution review of the PNM and documents related to source selection (including Source Selection Evaluation Board reports, Source Selection Authority decisions, and CO Findings and Determinations) is required where the underlying RLP was or becomes subject to legal review:

- Best value source selection above SLAT
- Actions with an aggregate value of \$20 million or more, or
- Prospectus-level projects.

### d. Recommendation Letter and OA

The Leasing Specialist prepares a letter to the tenant agency recommending offered space for occupancy. If the previously signed pro forma OA is for an insufficient amount of rent, revise the OA to reflect the final negotiated terms and conditions of the proposed lease and request the client agency sign the OA so that GSA can award the lease. This procedure verifies that the client agency understands and agrees with the proposed terms of the lease.

Note: The lease should not be sent to the successful offeror for signature before the return of an agency-approved OA, except under circumstances outlined under LDG Chapter 5, "Succeeding and Superseding Lease," where the Lease Contracting Officer may have to protect the government's financial interests without the benefit of an executed OA, to avert a holdover tenancy. See Chapter 5 for additional information.

Tenant agency signature on the OA is required before GSA enters into a lease contract. Furthermore, at the point of signing the lease contract, the latest iteration of the OA signed by the tenant agency confirms its financial commitment to pay the rent according to the terms and conditions stated in the OA.

A new/replacing lease cannot be awarded without benefit of the tenant agency's signature on the OA committing to the project. In some instances, GSA must act timely to protect the government's financial interests without the benefit of an executed OA. These instances must be approved by the regional Portfolio Director and should not result in a new or replacing lease, but rather a succeeding lease (see Chapter 5).

# e. Obtaining and Amending RWAs

Proper cost identification and reimbursement requires that an RWA may be requested or may need to be amended at various stages in the process before construction on a leased project begins and before the completed construction work is accepted by the Government. When a customer agency identifies a space requirement, the PBS representative will work with the customer agency throughout the project life cycle and will request an RWA, or an amendment thereto, as follows:

1. When the PBS representative receives the first round of offers, or receives final proposal revision offers, or before lease award and if, at any of these stages, it is known that the project will require a lump sum payment, then an RWA must be submitted, or amended, and accepted in an amount reasonably estimated by the PBS representative to cover the

#### **Fair and Reasonable Price**

It's a requirement that you as the Lease Contracting Officer affirm that the price is fair and reasonable.



Part 5: Award Determination

3. Final Steps Before Award

cost of the proposed design and construction. In any event, the RWA must be accepted before lease award.

- 2. An RWA or an amendment to the RWA generally will be required once the TI costs have been further discussed and agreed upon with the Lessor and it is confirmed that a lump sum payment will be necessary.
- 3. An RWA or an amendment to the RWA will be required after the construction drawings have been completed and a more detailed cost estimate is generated, if the revised cost estimate is different than the previous estimate. The RWA or the amended RWA must be submitted and accepted before PBS issues the Notice to Proceed for construction.
- 4. An RWA or an amendment to the RWA will be required after the construction has begun and there are changes to the plans that increase the cost of that construction (i.e., change orders). Work on the proposed change orders will not be authorized until the RWA or the amendment is accepted.
- A final amendment to the RWA will be required if the actual cost of construction of the completed improvements varies from the final cost estimate. The amendment to the RWA must be submitted and accepted before the PBS representative signs off on the completed work.
- 6. Notwithstanding the foregoing, at any time in the process the customer agency may submit and GSA must accept an RWA if:
  - (a) There is a past history of the customer agency exceeding the TI allowance,
  - (b) The customer agency requires special features or enhancements that are to be built or added for the Government's unique needs or special purposes, or
  - (c) The customer agency wants to pay down the customization component of its TI package, provided that doing so is consistent with PBS's pricing policy.

The accuracy of the graduated cost estimate will vary based on the phase of the project life cycle.

It is important to note, however, that there are restrictions on RWA acceptance as outlined under current RWA policy. For instance, reimbursable tenant improvements, which are classified as nonservable projects, may not be partially or incrementally funded; the client agency must fund the complete scope of work at the time of RWA submission. In addition, there are restrictions regarding amendments attributable to the original scope of work (commonly referred to as antecedent liability).

### f. BA53 Funds Certification

The Antideficiency Act prohibits obligating the Government to pay money before funds have been appropriated for that purpose. Certification of BA53

funds is the critical internal control in place that prevents Antideficiency Act violations.

The BA53 account is used to pay Lessors for leased space. For leases, the certification of BA53 funds must

#### **Certification Occurs Twice**

Certification occurs twice: once before award, and again before executing the lease commencement Lease Amendment.

Part 5: Award Determination

4. Assemble Lease Contract Documents



be approved before awarding a lease or a lease amendment that changes annual rent, rentable square feet, or the effective or expiration dates, or when conditions result in other monetary changes, such as operating cost escalations and stepped rent. Also, funds certification is required for lump-sum payments associated with tax reimbursements; claims, condemnations, and buyouts; non-fully serviced leases; and for certain types of Lessor defaults to correct a deficiency. When applicable, funds certification requests must include scoring documentation.

The Leasing Specialist must formally request certification of funds through the "Final Certification" function in REXUS. Certification is performed after receiving final proposal revisions but before awarding the lease. It is important to update REXUS project information with negotiated rental rates and the projected effective date before requesting certification. The lease cannot be awarded without an approved funds certification.

### g. Pre-Award Legal Review

As stated under GSA Order ADM 500.4B "agency counsel should be included as integral members of PBS project teams such that pre-award review of key documents would normally be accomplished as part of counsel's routine participation on the project team." Regardless, legal review is required for proposed lease contract awards as follows:

- Based on Justifications for Other Than Full and Open Competition for contracts (including exercise of contract options) above SLAT;
- Where the underlying RLP was the subject of legal review, specifically including
  - Lease awards above SLAT where best value source selection procedures were used;
  - Lease awards with an estimated aggregate value of \$20 million or more; or
  - Prospectus level projects.

# 4. Assemble Lease Contract Documents

This step provides documentation for Lease File Tab 7 (B), Lease.

When GSA pre-award reviews have been completed, the Leasing Specialist or broker contractor drafts the lease agreement for review by the Lease Contracting Officer. Most commercial leases

use contract documents provided by the Lessor, but in GSA lease acquisitions the lessee (the Government) supplies its own documents. The Lease Contracting Officer is responsible for confirming that the lease is carefully prepared and properly reflects the understanding of the parties. The documents must carefully reflect all terms and details agreed to, including revisions or modifications of terms arrived at during negotiations.

#### **Best Practice**

Lease documents sent electronically to the lessor should be in PDF format rather than Word. Check the lease before execution to make certain that the lessor has not made changes.

The Leasing Specialist should assemble the lease contract documents, which incorporate the understanding of the parties. The Leasing Specialist will fill out the lease signature page and section 1 of the lease contract, capturing the agreed-upon lease terms and conditions. (This

Part 5: Award Determination

5. Lease Award Process

replaces the old Standard Form 2, U.S. Government Lease for Real Property). Under GSA procedures, a lease must include the following:

- The lease contract and lease-related RLP amendments;
- General Clauses (Acquisition of Leasehold Interests in Real Property) version that was included with the RLP;
- Addendum to the SAM Representations and Certifications;
- Mutually agreed to Lessor clauses (deviations approved by the Lease Contracting Officer);
- Floor plans and legal description of the space that the offeror submitted in its offer;
- Parking plans, if applicable; and
- Pertinent portions of the offer, such as renderings of the building, site plans, and/or a subcontracting plan if required.

Create a single document (2 or more copies) that combines the lease, any amendments to the lease issued during the RLP process, Agency requirements, floor plans, GSA standard forms, parking site plans and other lease related documents. All pages of the lease must be numbered and stamped for the offeror to initial.

#### **Lease Placeholders**

The lease contains language that is a placeholder for several elements that will be reconciled later, such as:

- —ABOA square footage
- —Lease term commencement date
- —Annual rent based on TI expenditure.

# 5. Lease Award Process

Awarding a lease means creating a legally binding agreement with terms and conditions that GSA and the Lessor must honor. It obligates the Lessor to provide the stated space and services required by our client agency, and obligates the Government to pay the agreed amount in rent.

### a. Successful Offer

The acceptance of the offer and award of the lease occurs upon execution (signing) of the lease by the Lease Contracting Officer and mailing or otherwise furnishing written notification of the executed lease to the successful offeror. All approval signatures on the lease contract must be manual, not digital. The steps below outline the lease award process.

Send a pre-award lease transmittal letter to the apparent successful offeror. The letter
identifies the offeror as the apparent successful offeror and is accompanied by two
unsigned copies of the proposed lease. (Keep an additional copy of the unsigned lease
for the file, until the lease is executed.) The letter shall request the successful offeror to
return the signed lease within five (5) business days of the date of mailing by the LCO. GREX generates a draft of this letter. It must be carefully worded so that it cannot be

Part 5: Award Determination

♦ 5. Lease Award Process



construed as the actual lease award, which does not occur and become binding until execution of the lease by the Lease Contracting Officer.

- The intended awardee must sign both copies of the proposed lease, with signatures witnessed; initial every page of the lease and floor plans and other attachments; and return both copies to GSA.
- The Lease Contracting Officer checks the lease page by page to make sure that no changes have been made to the contract. The Lease Contracting Officer executes both copies of the lease, initials all pages, and inserts the date of his or her signature.
- One signed copy of the lease is sent to the Lessor using another transmittal letter. This
  fully executed copy of the lease evidences award; a copy of the letter and the executed
  contract should be retained in the lease file.
- The Leasing Specialist scans the lease into G-REX.

### b. Notify Unsuccessful Offerors

The Lease Contracting Officer must notify unsuccessful offerors in writing when their offers do not fall within the competitive range or are otherwise eliminated from the competition. Within 3 days of award, the Lease Contracting Officer must notify the offerors whose proposals were within the competitive range but were not selected for award. Post-award notices and rejection letters must be sent to each unsuccessful evaluated offeror and must include the following information (other information may be included as necessary and at the discretion of the Lease Contracting Officer):

- The name and address the offeror receiving an award;
- The rental rate offered by the successful offeror;
- The basis for the award (lowest price technically acceptable, or best-value tradeoff); and
- The reason(s) the offeror's proposal was not accepted, unless the price information described above readily reveals the reason. In no event should you disclose to any other offeror an offeror's cost breakdown, profit, overhead rates, trade secrets, manufacturing processes and techniques, or other confidential business information.

# c. FedBizOpps Synopsis of Award

Notification of contract awards is important for keeping the public informed of how the Federal Government is spending tax dollars, and for allowing potential subcontractors to learn about projects and provide the opportunity for them to make bids. Leasing Specialists or brokers must synopsize awards as indicated below.

FAR 5.301, "Synopses of Contract Awards," describes the procedures for releasing award information. The FAR requires GSA to publicly disclose any lease contract awards exceeding \$25,000 (in aggregate rent)

#### **Best Practice**

Post the lease contract award on FedBizOpps within 1 week of making the award—sooner, if possible.

### If a Protest is Likely

Consult with legal counsel and consider sending out notifications to unsuccessful offerors prior to award. Pre-award debriefs may identify procurement flaws and result in corrective action before lease award.



Part 5: Award Determination

5. Lease Award Process &

that are likely to result in the award of any subcontracts. All awards for leased space are considered likely to result in the award of subcontracts, with the exception of those for parking.

### d. Debriefing/Protests

### **Conducting Debriefings**

Requests for debriefing are handled in accordance with FAR 15.506. In general, GSA must debrief any unsuccessful offeror from which GSA has received a written request within 3 days after the offeror received notification. The debriefing should take place within 5 days after GSA receives the request.

During the process of informing non-selected offerors why they were not selected, the Lease Contracting Officer should be as forthcoming as possible to the offerors and express appreciation for their effort and time. This cultivates a partnering environment between the Government and marketplace fostering an understanding of Government needs and processes that is likely to enhance future procurement competitiveness. It also serves to assuage an offeror who may be disappointed in the outcome and provide an adequate level of transparency to dissuade a potential protest.

Debriefings of offerors may be done orally, in writing, or by any other method acceptable to the Lease Contracting Officer. The Lease Contracting Officer should normally chair any debriefing session held, with individuals who conducted the evaluations providing support. At a minimum, the debriefing information must include:

- The Government's evaluation of the significant weaknesses or deficiencies in the offeror's proposal, if applicable;
- The overall evaluated cost or price (including unit prices) and technical rating, if applicable, of the successful offeror and the debriefed offeror, and past performance information on the debriefed offeror;
- The overall ranking of all offerors, when any ranking was developed by the agency during the source selection;
- A summary of the rationale for award; and

release under the Freedom of Information Act. Such

 Reasonable responses to relevant questions about whether source selection procedures contained in the RLP, applicable regulations, and other applicable authorities were followed.

The debriefing should not make point-by-point comparisons of the debriefed offeror's proposal with those of other offerors, and must not reveal any information prohibited from disclosure or exempt from

Trade secrets:

information includes:

### **Accommodating Late Requests**

An offeror that fails to submit a timely request is not entitled to a debriefing. The request may still be accommodated. This delay, however, does not automatically extend deadlines for filing a protest.

Part 5: Award Determination

♦ 5. Lease Award Process



- Privileged or confidential manufacturing processes and techniques;
- Commercial and financial information that is privileged or confidential, including cost breakdowns, profit, indirect cost rates, and similar information; and
- The names of individuals providing reference information about an offeror's past performance.

An official summary of the debriefing must be included in the contract file.

#### **Protests**

In the event of an award protest, the Lease Contracting Officer must immediately consult with the

Office of Regional Counsel. Award protests are handled in accordance with GSAM 533.1 and FAR 33.1. Use of alternative dispute resolution methods outlined in Executive Order 12979, "Agency Procurement Protests" is encouraged for both pre- and post-award protests. Protests must be received within 10 days after contract award or within 5 days after a debriefing date offered to the protester under a timely debriefing request. Once

### Additional Protest Information

Further information about protests can also be found in GSA Form 3516, Solicitation Provisions.

GSA receives a protest, it is important to begin the formal response process to comply with required response deadlines. Protests are discussed further in Chapter 22, Claims and Disputes.

## e. Distribution of Lease Copies

The original executed lease is placed in the lease file. The Lease Contracting Officer should provide copies to local and headquarters representatives of the client agency; the GSA field office (including the Lease Administration Manager (LAM); FPS; and other appropriate team members so that they can take further necessary actions regarding space layout and design, alterations, move coordination, telecommunications planning, space security, and supporting service or utility contracts.

### f. Post-Award Notifications

### Prepare Contracting Officer's Representative (COR) Designation Letters

In the GSA organization, once a lease is awarded the COR receives responsibility for lease management through a delegation. The COR delegation can be granted to any person with the qualifications and **Net Leases** training needed to administer the lease. Unless the

the LAM. See Chapter 17, Lease Administration.

Lease Contracting Officer will enforce and administer the

lease, a COR must be delegated responsibility to act as

Don't forget to notify the Lease Administration Manager that he or she needs to set up a utility contract.

### **Government-Provided Services**

Inform the LAM if the Lease contract excludes any essential services, such as utilities, so the LAM can make the necessary arrangements for those services. Use the "Non-Fully Serviced Lease Information Worksheet" as found in the Lease Management Desk Guide (LMDG).



Part 5: Award Determination

5. Lease Award Process &

The LMDG includes a template for sharing this type of information, including the estimated start and termination dates for services and a description of the services required. The template can be found at <a href="https://insite.gsa.gov/portal/content/620718">https://insite.gsa.gov/portal/content/620718</a>.

Note: While it was previous practice to use BA53 leasing funds to pay for operating costs until the Building Services budget activity (BA61) had adequate time to budget for these costs, only BA61 funds shall be used to fund non-fully serviced lease operating costs.

### Posting of Redacted Justifications for Other Than Full and Open Competitions

Redacted justifications for other than full and open competition (justifications) must be published in FedBizOpps, the Federal Business Opportunities website (www.fedbizopps.gov), within 14 days after lease award. Section 844 of the National Defense Authorization Act for Fiscal Year 2008 stipulates the requirements regarding the public availability of justification and approval documents after the award of Federal contracts, except for information exempt from public disclosure. Note that this does not apply to SLAT actions, which do not require a formal OTFO (documentation to explain the lack of competition is sufficient).

A posting of the award for all leases and supplemental lease agreements awarded from an OTFO competition must be advertised in FedBizOpps. That policy requires publication of such justifications within 14 days after lease award. The FedBizOpps website's Frequently Asked Questions (FAQs) webpage provides guidance on how to search for documents and upload OTFO documents (which are referred to on the FedBizOpps website as "Justification and Approval" or "J&A"). In the case of lease awards permitted on the basis of unusual and compelling urgency, Lease Contracting Officers must publish these justifications within 30 days after lease award.

Before the publication, Lease Contracting Officers, in consultation with the Regional Counsel's Office, must screen all justifications for contractor proprietary data and remove all such data, references, and citations as are necessary to protect the proprietary data in accordance with the Freedom of Information Act (FOIA). In addition, Lease Contracting Officers must be guided by the exemptions to disclosure of information contained in FOIA (5 U.S.C. 552) and the prohibitions against disclosure in determining whether other data should be removed. See Chapter 5 of this desk guide for additional redaction guidance.

5. Lease Award Process 🖑

# Part 6: Design, TI and BSAC Negotiations, and Notice to Proceed

1. Overview	2.6-2
a. Shell Definition	2.6-2
b. Tenant Improvements (TIs)	2.6-2
c. Building Specific Amortized Capital (BSAC)	2.6-3
2. Setting Up Post Award	2.6-5
a. Financial and Technical Capability	2.6-5
b. Move Funding and Coordination	2.6-5
c. Technical Support	2.6-6
d. Green Lease Requirements	2.6-6
3. Design Intent Drawings (DIDs)	2.6-6
a. Purpose	2.6-6
b. Preparation	2.6-7
c. DID Review Process	2.6-8
d. Interior Finishes	2.6-8
4. Construction Drawings (CDs)	2.6-8
a. Definition and Purpose	2.6-8
b. Preparation	2.6-8
c. GSA Review Process	
5. TI and BSAC Negotiation	2.6-9
a. TI and BSAC Bid Process	2.6-9
b. GSA Reviews	2.6-12
c. Negotiation	2.6-12
6. Notice to Proceed	2.6-13
a. NTP Letter	2.6-13
b. TI Overage	2.6-14
c. BSAC Pricing Considerations	2.6-14
d. TI-RWA Tracker	2.6-14

Part 6: Design, TI and BSAC Negotiations, and Notice to Proceed



\$ 1. Overview

### 1. Overview

After award of the lease, the post-award process commences to complete the space for occupancy by the client agency. The primary phases of this process include the Government-approved Design Intent Drawings (DIDs), Lessor-completed Construction Drawings (CDs), Tenant Improvement (TI) pricing and negotiations, the Notice to Proceed for TIs, followed by the Construction phase (described in Part 7). The overall goal is to take space from a shell condition to a finished, usable state that meets the client agency's functional needs. These finishes and fixtures are the TIs, funded by the TI allowance stated in the lease.

The illustration following this overview shows the space design and build-out process. Each step label is linked to the section that discusses the topic.

### a. Shell Definition

The PBS definition of "shell" is found in its entirety in the Pricing Guide (https://insite.gsa.gov/portal/mediald/553222/fileNam e/PBS-PTAC-Pricing\_Guide\_4th\_Ed.action). Also, Section 3 of the lease itself identifies the specific items that are considered part of the shell. Among the items included in the shell cost are the completed base structure and enclosure components. In general, the lease specifies that unless an item is specifically identified as a tenant improvement or building-specific amortized capital, it is considered a shell item.

### The "Warm Lit Shell"

The GSA definition of a "warm lit shell" may vary from industry definitions. The lease defines exactly what we mean.

# b. Tenant Improvements (TIs)

TIs encompass the initial improvements to the shell that are performed to deliver the improved space available for occupancy at lease inception as required by the lease. For initial occupancies (new space, new tenant) the tenant agency is provided the full TI allowance. The tenant agency may buy down the customization portion of the TI allowance (subject to the provisions of the Pricing Desk Guide Section 2.5.10, reference prior to lease award). Tenant agency cannot buy down the general portion of the TI allowance in first generation/shell condition space.

The following are the major steps in this part of the process:

- Design layout preparation—DIDs for the TI are generally prepared by the Lessor. Once they are approved, the Lessor finalizes CDs for building out the space.
- TI submittal, review, negotiation, and Notice to Proceed—The Lessor submits proposed competitive pricing of TI costs. Upon review and approval, GSA authorizes the Lessor to proceed with construction.
- Inspection and substantial completion. Any unused portion of the TI allowance must result in a decrease in rent according to the agreed upon amortization rate and term.



Part 6: Design, TI and BSAC Negotiations, and Notice to Proceed

1. Overview 🖑

Post-occupancy alterations that occur (after substantial completion and acceptance including punch list items) during the lease term can be either amortized into the rent or funded via RWA (Post-occupancy alterations are discussed in Chapter 8, Alterations).

### c. Building Specific Amortized Capital (BSAC)

In leasing, all Interagency Security Committee (ISC) recommended countermeasures for each FSL are listed in the attachments to the Leasing Desk Guide (LDG) Chapter 19, Security. These countermeasures are priced as shell items or are priced as BSAC. The BSAC charge is for specific security items that are a separate capital investment in the leased property. BSAC charges are separate from the building shell or Tenant Improvements (TI) for rate setting purposes. BSAC is separately priced, is typically amortized in the rent over the lease firm term, and is a lease pass through to tenant agencies on their PBS rent bill as one of the line items. Depending upon the Facility Security Level (FSL), these BSAC countermeasures are priced either as turnkey or using placeholder BSAC estimates. The RLP will specify the method.

FSL I countermeasures are priced as shell items. FSL II countermeasures include both shell items and BSAC items which are priced pre-award using the Security Unit Price (SecUP) list. For FSL III, the placeholder estimate is \$25.00 per ABOA SF and for FSL IV it is \$35.00 per ABOA SF for all property types, including warehouses. These placeholder figures are for the purpose of evaluation of offers to award a lease. If the entire placeholder amounts are not used for BSAC purposes, the BSAC charge is lowered, which would be reflected in the OA and through a lease amendment as to what was actually spent. After lease award, these figures are revised to reflect the actual BSAC costs that are negotiated with the Lessor simultaneously with the TI costs. Unused BSAC cannot be used for any other purpose or allowance. See leasing alert issued April 5, 2016, entitled "Clarifications to Building Specific Amortized Capital (BSAC) Security, Pertains to Leased Space Only."



♣ 1. Overview

# Post-Award Process Financial and technical capability Acquisition Planning/Pre-Solicitation Requirements Move coordination Market Survey Process Technical support Solicitation Process Green lease requirements Pre-Negotiation/Negotiations **Process** Design intent drawings (DIDs) **Award Determination** Interior finishes Design, TI Negotiations, and Notice to Proceed Construction drawings (CDs) **Construction Phase** TI and BSAC negotiations Lease Commencement and Closeout Notice to Proceed (NTP)



Part 6: Design, TI and BSAC Negotiations, and Notice to Proceed

2. Setting Up Post Award &

# 2. Setting Up Post Award

# a. Financial and Technical Capability

After award, the winning offeror must submit to the Lease Contracting Officer additional information regarding its capability to perform the lease. As detailed in the lease, this information includes a firm commitment of sufficient funds; names of proposed construction contractors; the state practice license or certification of the provider of architectural and engineering design services; and certification of HUBZone eligibility, if the offeror claimed qualification for that price preference.

**HUBZone Certification:** If the Lessor is a HUBZone SBC that did not waive the price evaluation preference, the Lessor must certify within 10 days after lease award to the Lease Contracting Officer (or representative designated by the Lease Contracting Officer) that the Lessor was an eligible HUBZone SBC on the date of award. If it is determined within 20 days after award that a HUBZone SBC offeror that has been awarded the lease was not an eligible HUBZone SBC at the time of award, and the HUBZone SBC Lessor failed to provide the Lease Contracting Officer with information regarding a change to its HUBZone eligibility before award, then the lease is subject to termination at the Lease Contracting Officer's discretion, and the Government is relieved of all obligations to the Lessor in such an event and not liable to the Lessor for any costs, claims, or damages of any nature whatsoever.

Failure to meet any of these requirements may be considered grounds for terminating the contract for default. The Office of Regional Counsel will review issues arising during contract administration that affect job progress, and the Lease Contracting Officer should consult Regional Counsel as needed.

# b. Move Funding and Coordination

#### **Move Coordination Activities**

Client agencies are responsible for funding their own physical moves, telecommunication costs, data processing equipment, furniture, and other related costs of the physical move. Client agencies in both federally owned and leased space can expect to fund all move costs at the end of their OA term.

The Total Workplace Furniture and IT (FIT) program target agencies (meeting FIT program criteria) that want to execute a total workplace project but do not have the funds to purchase furniture or IT. Under the FIT program, GSA funds a customer's initial furniture and IT design, purchase and installation through the Acquisition Services Fund, in which a payment schedule and terms and conditions are therefore included in a Supplement to the Occupancy Agreement. The tenant agency's monthly rent bill will add a supplemental FFE and IT billing adjustment charge based on the agreed term provisions of the OA Supplement.

Leasing Specialists or project managers play an important role in helping to coordinate physical moves and cabling installation. They should contact the LAM, who will obtain bids for moving services, as well as their FAS Property Disposal contact if necessary. The client agency may need trash removal services arranged or altered to accommodate pre-move preparations. If FAS is expected to assist with data cabling services, it should be contacted before design begins. The

Part 6: Design, TI and BSAC Negotiations, and Notice to Proceed



♦ 3. Design Intent Drawings (DIDs)

actual activities to prepare for the move may or may not begin at this point, but the discussions and planning should.

### c. Technical Support

Leasing Specialists and Lease Contracting Officers need to consider a number of factors when allocating resources to support the construction management phase of lease projects: size, complexity, availability of local GSA associates and/or ID/IQ contractors, and other such factors.

Among the primary goals is that the Leasing Specialist have access to personnel with sufficient technical expertise to ensure adequate oversight of the Lessor's construction activities. Most leases require some level of additional technical support during the TI construction phase that should be provided by someone with the pertinent training and skills. Although Leasing Specialists in some cases may take on the role of project manager by default, they may not have the necessary familiarity with construction management, estimating, and so on. Likewise, Lease Contracting Officers, while thoroughly trained in business topics, may not have construction or trade training.

By providing the appropriate level of technical support during construction of tenant improvements, we reduce the risk of customer dissatisfaction regarding deficiencies in construction quality or building performance; we make it easier to bring lessors into compliance with lease requirements; and we can perform lease management responsibilities more effectively.

# d. Green Lease Requirements

The green lease or sustainability requirements of our leases are important to our customers, our stakeholders, and the general public. Several specific documents related to these requirements must be submitted around the time of DID preparation: product data sheets, a re-use plan, building recycling plan, and a written commissioning plan, among others. These requirements are contained in the Green Lease Submittals paragraph of the lease. Therefore, post-award activities must include review and enforcement of these requirements.

# 3. Design Intent Drawings (DIDs)

# a. Purpose

DIDs are drawings that show partitions and doors; schematic demolition; voice, data, and electrical outlet locations; level of finishes; generic furniture layout; and any additional details necessary to communicate the "design intent" to the Lessor's architect for the purpose of preparing construction documents. See the Lease itself and the Pricing Desk Guide for further details on what the DIDs cover.

DIDs are developed using the space layout provided by the Lessor along with agency

requirements. They detail the tenant improvements to be constructed by the Lessor within the Governmentdemised area and become the basis for the final Construction Drawings (CD's). DIDs do not contain mechanical, electrical, or plumbing specifications or

### **Confirm ABOA Square Footage**

It's a best practice to confirm the ABOA SF in the DIDs before preparing the CDs.



Part 6: Design, TI and BSAC Negotiations, and Notice to Proceed

3. Design Intent Drawings (DIDs) ♥

drawings. Although DIDs do not identify furniture specifications, they should note any critical dimensions for wall and furniture placement. They also do not address computer or telecommunication specifications; nor do they contain signage, artwork, keying, or hardware schedules.

It is important to manage customer expectations regarding the design features. All design elements will have consequences for the build-out costs. Preparation of the DIDs is also an opportunity to make sure that the agency optimizes its final use of the space.

### b. Preparation

The lease specifies whether the DIDs are prepared by the Lessor or the Government.

Lessor—Lessors typically prepare DIDs as part of shell rent. This approach generally
offers an acceptable delivery time, and uses
the expertise of professional

architecture/engineering staff who are familiar with the building. In this approach, however, the Lessor may offer design features or items whose cost will exceed the TI allowance.

#### Government

- GSA—GSA may use in-house space planners or contract services to prepare the DIDs. These services are paid by the client agency via RWA. The lease included in the RLP package should reflect that the
  - Government will prepare and provide the DIDs to the Lessor so the client agency has a potentially lower shell rent. This approach may give GSA more control over the schedule. However, planning is required to allocate technical resources and/or funding availability.
- Client agency—The client agency is familiar with its space and design requirements.
   However, GSA has less control over the schedule and delivery date. If the client
   agency prepares the DIDs, the lease included in the RLP package must reflect that
   the Government will prepare and provide the DIDs to the Lessor so the client agency
   has a potentially lower shell rent.
- DID workshop—When feasible, consider having DIDs prepared via a DID workshop, which improves overall efficiencies in the acquisition process and reduces schedule time. This option is one of the three DID methods that can be selected in Section 4 of the lease. During a DID workshop, the client agency works with the selected Lessor (or with offerors preaward, in the case of turnkey TI pricing) to transform the agency's requirements package into complete and approved DIDs. A DID workshop typically lasts 1 to 3 days and may require GSA and agency representatives to travel to a meeting site to work with the Lessor and the architect. Both GSA and the client agency are required to have representatives present who have decision-making authority for the project. A GSA representative experienced with the DID process is critical to the success of this project phase. DID workshops and TI pricing options are discussed in greater detail in Chapter 4, Streamlined Lease.

# Start This Discussion Early: Who Prepares the DIDs?

The issue of who will prepare the DIDs should be broached early in the lease acquisition process, during initial requirements development. The selected approach should be stated in the RLP. The choice will affect design meeting scenarios and schedules and the negotiated shell rate.

Part 6: Design, TI and BSAC Negotiations, and Notice to Proceed



4. Construction Drawings (CDs)

Remember to consult with your Regional GSA Concessions Specialist during DID preparation for any Randolph Sheppard requirements.

### c. DID Review Process

For Security Level III clients in single-tenant buildings and Security Level IV clients, DIDs should be treated as sensitive but unclassified (SBU) documents. Ideally, however, GSA and the agency should have determined whether this procurement (or particular drawings) involved SBU information early on, during assessment of the agency's special needs and requirements.

### Fire Life/Safety Reviews

DIDs should be submitted to the GSA Fire Protection Engineer for review and approval. This review will examine furniture plans, and other details that show exit paths, emergency lighting, and sprinklers. Any changes to layout or DIDs from fire and life-safety and/or FPS review must be re-submitted to the client agency for concurrence.

The client agency must approve DIDs by signature or email, and the Lessor cannot proceed to other steps until DIDs are approved by the Lease Contracting Officer.

### d. Interior Finishes

Coordinated interior finishes must be provided by the Lessor and selected by the agency during design. Sample selections should be documented in the lease file. The Leasing Specialist should seek technical expertise to confirm that the finish selections chosen comply with the lease standards.

# 4. Construction Drawings (CDs)

# a. Definition and Purpose

CDs, which are sometimes referred to as "working" or "sealed" drawings, provide the specifications, engineering calculations, and construction details necessary to construct the space. They are also the basis for determining code compliance, obtaining building permits, evaluating contractual performance, and determining legal liability for occupants' safety and welfare. CDs reflect both the lease requirements and specifications in the DIDs. They must also conform to accessibility standards in the lease.

# b. Preparation

GSA must send a letter to the Lessor transmitting approved DIDs and also requesting that CDs be developed.

### c. GSA Review Process

GSA and the client agency review the CDs. The Leasing Specialist will engage a design professional either in-house or contract to review these documents for input and comment. In addition to showing the technical solutions for systems such as HVAC and electrical, the CDs are



Part 6: Design, TI and BSAC Negotiations, and Notice to Proceed

5. TI and BSAC Negotiation &

the first time that hardware schedules and security details are presented, so they require close review by GSA and the client agency.

Regardless of GSA's review of the construction documents, the Lessor is solely responsible and liable for the technical accuracy of the construction documents in meeting all requirements and provisions of the lease and the Government-approved design intent drawings.

The GSA review is not an "approval." It is limited to evaluating the construction documents' conformance to the specific requirements of the lease and to the approved DIDs, and it must be completed within the time frame specified in the lease. Should the GSA or the client agency require that modifications be made to the Lessor's CDs, GSA will provide this notification in writing to the Lessor, and will request a specific time period to correct all noted defects before a subsequent

review. Preparation of the CDs is priced as part of the architecture/engineering fees that are negotiated before lease award and established in the contract. They are considered TI costs.

Upon completion of any required corrections, GSA ascertains conformance of the construction documents to the design intent drawings. The Lessor then obtains the necessary permits and may begin construction of the shell space. The tenant improvement cost negotiation must still take place.

#### **Fix It Now**

Carefully reviewing the DIDs and CDs for adherence to the lease will avoid costly mistakes and change orders. It's less expensive to find and correct mistakes on the CDs now than to discover them after construction begins.

### **CDs Don't Belong in the Lease**

It is not appropriate to incorporate construction drawings into a lease. Doing so shifts unnecessary risk to the Government.

# 5. TI and BSAC Negotiation

### a. TI and BSAC Bid Process

FAR 15.406-3 states that the contracting officer must document in the contract file the principal elements of the negotiated agreement as well as provide required elements. Further, it requires documentation for fair and reasonable pricing. The Lease Contracting Officer, assisted by the Leasing Specialist or broker contractor, can negotiate the final cost of TI (and, if applicable, BSAC) with the Lessor based either on certified cost or pricing data and an Independent Government Estimate (IGE, or on the results of a competitive proposal process handled by the Lessor).

GSAM 570.110, "Cost or pricing data and information other than cost or pricing data," states that for price analysis of offered tenant improvement costs, obtain either two offers or cost and pricing data. The sources of information that the Lease Contracting Officer may use to validate such cost and pricing data include the Project Cost Planning Guide (PCPG), an IGE if available, and pricing history. In the absence of competitive bids for TI work, the price analysis should be based on an IGE.

Part 6: Design, TI and BSAC Negotiations, and Notice to Proceed



\$ 5. TI and BSAC Negotiation

### **Competitive Process**

Evidence of Competitive Bidding Process or Cost or Pricing Data for TI or BSAC Costs. This may be a letter or e-mail from the Lessor attached to the copy of the bids obtained, a copy of the bids obtained (two competitive bids), cost and pricing information if applicable, etc. See FAR 15.400.

In lieu of the lessor submitting detailed cost or pricing data and GSA entering into negotiations to determine a final cost for the subject work, the Government may negotiate a price based on a competitive proposal process. In this case the following conditions must be met:

- The TI and, if applicable, BSAC scope of work includes the lease and all attachments, the
  design intent drawings, construction drawings/documents, and written specifications. In
  cases of discrepancies, the Lessor must immediately notify the Lease Contracting Officer
  for resolution. The Lease Contracting Officer will resolve differences in accordance with
  the lease terms and conditions.
- The Lessor must invite at least two qualified general contractors to participate in the
  competitive proposal process. They must compete independently. In the absence of
  sufficient competition from general contractors, at least two qualified subcontractors from
  each trade in the TICS table must be invited to submit proposals.
- Each proposal must be submitted in the Tenant Improvement Cost Summary (TICS) table (explained below) by the proposed general contractors or subcontractors; reviewed by the Lessor before submittal to ensure compliance with the scope of work and the proper allocation of shell and TI costs; and reviewed by the Government. The general contractors must submit the supporting bids from the major subcontractors. The Government reserves the right to determine whether bids meet the scope of work, that the price is reasonable, and that the Lessor's proposed contractors are qualified to perform the work; and to reject all bids.
- All construction costs other than TI or Building Specific Amortized Capital are included in the shell rent. The TICS table must clearly identify costs for shell items separately from TI costs.
- The Government reserves the right to attend or be represented at all negotiation sessions between the Lessor and potential contractors.
- The Lessor must demonstrate to the Government that it has made best efforts to obtain the most competitive prices possible, and must accept responsibility for all prices through direct contracts with all contractors.
- The Lessor must complete the competition and the cost proposal process in the time frame specified in the lease.
- Once the Government determines that the Lessor's proposal is acceptable, the Lease Contracting Officer issues to the Lessor a Notice to Proceed (NTP) for the work.
- The Lessor must complete the work within the time frame specified in the lease.



Part 6: Design, TI and BSAC Negotiations, and Notice to Proceed

5. TI and BSAC Negotiation &

The Lessor's project management fees to deliver the TIs are also negotiated during the preaward phase and established under the lease contract.

### **Independent Government Estimate**

As its name implies, an independent Government estimate is a document that identifies the approximate fair and reasonable cost of contract work that is proposed to be performed. IGEs for TI and, if applicable, BSAC work may be prepared by technical resources, either in-house or contracted, such as engineers, architects, estimators, or construction managers. The Lease Contracting Officer uses the IGE to evaluate bids and negotiate their price, in the absence of competitive bids or reliable comparative cost and pricing data.

The IGE is prepared following procedures defined in the P120 Project Cost and Schedule Management Requirements. The Lessor's bid is submitted via the TICS table format, to ensure a consistent basis for comparison. The Lease Contracting Officer analyzes the bid against the IGE to identify and reconcile the major differences.

An IGE is required when:

- the value of the proposed work is expected to exceed the simplified acquisition threshold;
   and
- the lessor, at either the request or approval of the Lease Contracting Officer, submits only
  one general contractor bid and one subcontractor bid for each trade. This approach may
  be considered only when competition is not available; or seeking competition would
  unduly slow the process; or seeking competition is otherwise not in the best interests of
  the Government.

An IGE is not required when the value of the proposed work does not exceed the simplified acquisition threshold; when the lessor submits two or more bids from general contractors; or when the lessor identifies only one general contractor but furnishes two or more subcontractor bids for each major trade. However, in any of these cases, it may still be in the Government's best interest to prepare an IGE, if the Lease Contracting Officer deems it necessary, and a proposal review by an estimator may also be conducted.

### **Tenant Improvements Cost Summary (TICS) Table**

The TICS table is a multi-tabbed Excel spreadsheet that produces a summary table useful for evaluating TI bids. The TICS table must be used to calculate and record the Lessor's proposed TI and shell costs. It segregates TI from shell costs per the Pricing Desk Guide to eliminate the inclusion of shell improvements in TI costs. The cost segregation is also helpful for conducting negotiations.

The table is closely modeled after the Construction Specifications Institute's MasterFormat. The table allows for the functional elements of alterations to be clearly separated into shell and TI categories and makes price evaluation more intuitive and standardized.

Completion of the table is self-explanatory. The Lessor inputs the proposed costs for each of the indicated elements, which are broken out into shell and TI categories. The Lessor then submits the completed table using the instructions set out in the lease.

Part 6: Design, TI and BSAC Negotiations, and Notice to Proceed



♦ 5. TI and BSAC Negotiation

In addition, the table outlines all the respective trades that must be represented for a competitive proposal process among subcontractors for TI work, if there is an absence of sufficient competition from the general contractors. The TICS table provides a practical tool for meeting these requirements.

### b. GSA Reviews

The Leasing Specialist or broker contractor with appropriate technical support should review the competitive bids. The following items should be considered in reviewing TI requirements:

- Confirm that the Lessor received bids from two or more general contractors or that the general contractor received bids from two or more sub-contractors for each trade.
- Confirm that TI and shell bids were broken out in a TI Cost Summary (TICS) Table.
- Confirm that TICS table feeder sheets for each costs element/division were filled out.
- Confirm that shell items are not included in TI costs.
- Review the TI bid against an IGE if applicable.
- Check that fees align with those stated in the lease.

Once the reviews are complete, the Leasing Specialist should inform the Lessor of any discrepancies. Revised bids may be required in order to comply with the above parameters. Any revised bids should be reviewed to verify that price adjustments were made and bids are in compliance. The Leasing Specialist should also note which bidders submitted revised bids.

### c. Negotiation

Negotiation can include establishing a fair division of costs that fall among shell, TI and, if applicable, BSAC; working to achieve lower costs that might be bid at the high end of a range; and other related actions. Even if the bids are lower than the TI allowance or BSAC placeholder estimate the Leasing Specialist or broker contractor must negotiate with the Lessor to verify that the lowest bid is fair and reasonable and complies with the review parameters listed above. The Leasing Specialist may request technical support to assist during negotiations. The Leasing Specialist should negotiate with the Lessor regarding all bids received, not just the lowest one.

### TI or TI/BSAC PNM

This step produces documentation for Lease File Tab 9, Post Award.

FAR 15.406-3 states, "The Contracting Officer shall document in the contract file the principal elements of the negotiated agreement," as well as providing required elements. It also requires documentation on pricing used by the Lease Contracting Officer to determine that pricing is fair and reasonable.

The TI or TI/BSAC PNM must conform to the FAR Part 15.4 requirements.

The Leasing Specialist or contract support person must prepare the TI or TI/BSAC PNM and obtain the Lease Contracting Officer's signature before issuing an NTP for tenant improvements.



Part 6: Design, TI and BSAC Negotiations, and Notice to Proceed

A template for the TI PNM is available on the National Office of Leasing Google site. Leasing Specialists should tailor this template to address post-award BSAC negotiations as well.

# 6. Notice to Proceed

The Notice to Proceed can be granted if:

- Competition for the construction contract award is deemed adequate (alternatively, the Lessor must provide certified cost or pricing data).
- The Lessor's cost proposal is accepted (it is based on the lowest bid by a qualified contractor and determined to be fair and reasonable).
- Final DIDs are approved, and all CDs are completed, if required under the lease.
- Funds are available.
  - Agency TI Allowance stated in the signed OA and in the agency RWA, will sufficiently cover TI costs and BA 53 funding is secured; and

The notice is given in writing and binds the Government contractually. The content of the notice letter depends on whether the construction contract was awarded competitively or on the basis of cost and pricing, and whether the cost is below or exceeds the TI allowance. If it exceeds the TI allowance, the notice must be accompanied by a lease amendment addressing the TI overage. The notice must state the price that has been agreed upon, not a "not to exceed" figure.

If the TI costs are below the allowance, the TI rent must be adjusted downwards in accordance with the terms of the lease. A lease amendment is not required at this time, although the lease amendment issued at rent commencement must reflect the adjusted TI rent (see Part 8 of this desk guide chapter).

### a. NTP Letter

Most leases contain language requiring a Lease Contracting Officer to issue an NTP upon determination of adequate competition (or per the FAR, cost and pricing data in the absence of competition) and acceptance of the cost proposal.

An NTP template is available on the National Office of Leasing Google site that contains non-printing blue instructional text to assist those preparing the NTP for the Lease Contracting Officer's signature. An alternative document may be used, but it must contain essentially the same information.

### **Adjusting TI or BSAC Rent**

TI or BSAC rent is recalculated by re-amortizing the agreed upon pricing (principal) over the terms (number of months and interest rate) established in the lease. Note that TI or BSAC established as firm fixed (turnkey) pricing is not subject to readjustment.

Part 6: Design, TI and BSAC Negotiations, and Notice to Proceed



♦ 6. Notice to Proceed

### b. TI Overage

In many cases, the negotiated TI cost exceeds the TI allowance. Leasing Specialists must keep the client agency apprised of this during negotiations. Before issuing the NTP, the Leasing Specialist must confirm that the client agency has authorized this additional expenditure and the LCO has obtained sufficient RWA funds for the excess TIs and PBS fees. Under these circumstances, a lease amendment ordering the excess TIs must accompany the NTP. The overage amount and Pegasys Document Number (PDN) must be documented in the lease amendment. Send a copy of the obligating documents to the Budget Office within 10 business days of obligation or, by the end of the month for obligations of \$50,000 or more, when using RWA funds. Always refer to the latest RWA policy for detailed guidance related to RWAs.

# c. BSAC Pricing Considerations

If the entire placeholder amounts are not used for BSAC purposes, the BSAC charge is lowered, which would be reflected in the OA and through a lease amendment as to what was actually spent. After lease award, these figures are revised to reflect the actual BSAC costs that are negotiated with the Lessor simultaneously with the TI costs. **Unused BSAC cannot be used for any other purpose or allowance.** 

Note: Blue text language in the lease documents and lease security attachments cautions that the fully serviced lease rents, including shell, operating cost, TI, and BSAC, cannot exceed the high end of the market rents or the prospectus threshold limit. If the inclusion of the BSAC amount causes the fully serviced lease rent to exceed the high end of the market or prospectus threshold limit, the amount of BSAC being amortized in the rent must be reduced and the difference must then be funded by RWA. Although it is not common practice, the agency can use an RWA to pay for BSAC in lieu of amortizing it in the rent.

### d. TI-RWA Tracker

GSA uses a spreadsheet template to track obligations against the RWA.

- 1. Using the TI-RWA workbook, enter the Lessor's cost proposal on the TI Tracker sheet. Use this spreadsheet to summarize changes to the Lessor's TI cost proposal, whether by application of unit prices contained in the lease or by negotiations. In instances where the NTP for tenant improvements is for an amount less than the TI allowance, some changes during construction may be charged against the available TI allowance. Use the TI Tracker to make adjustments in the appropriate system element so the TI amount expended is always known.
  - The cells for the Lessor's fees do not contain formulas since the basis for the fees may vary from one project to another. Enter the correct formula or amount as needed. The ANSI/BOMA Office Area (ABOA) square feet, the TI allowance, and the adjusted Lessor's costs will carry over to the RWA Input sheet and the RWA Tracker sheet.
- Once the Lease Contracting Officer determines that the offered TI cost is fair and reasonable, prepare the TI PNM, the NTP, and, if needed, the lease amendment to order excess TIs once GSA receives an RWA from the agency as well as its concurrence for the expenditure.



Part 6: Design, TI and BSAC Negotiations, and Notice to Proceed

3. If we receive RWAs from the agency for a project, use the RWA Entry & Tracking Application (RETA), a web-based system that serves the Public Buildings Service as a centralized repository for RWA information. RETA can generate customer letters for acceptance or rejection of RWAs, calculate cost estimates using the Summary Cost Estimate (SCE) worksheet, and provide financial reports and RWA summaries. Additional guidance can be found on the website for PBS, Chief Financial Officer, Financial Systems & Resources.



1. Overview 🖑

# Part 7: Construction Phase

1. Overview	2.7-1
2. Construction Schedule	2.7-3
3. Kickoff Meeting	2.7-3
a. Attendees	2.7-3
b. Agenda	2.7-4
c. Meeting Minutes	2.7-5
d. Other Items	2.7-5
4. Progress Inspections	2.7-5
a. Inspection Items	2.7-6
b. Construction Manager Deliverables	2.7-6
5. Change Orders	2.7-7
a. Lessor Changes	2.7-7
b. Government Changes	2.7-7
c. Legal Review	2.7-8
6. Acceptance Inspection	2.7-9
a. Receive Notice from Lessor	2.7-9
b. Invite Inspection Participants	2.7-9
c. Inspection and Acceptance	2.7-11
d. Acceptance Determination	2.7-12
e. Re-inspect as Necessary	2.7-13

# 1. Overview

The construction phase of the project—which begins after the Lease Contracting Officer issues a Notice to Proceed for the tenant improvements—involves the build-out of the space by the Lessor. This part will discuss key elements of this phase, which include the construction kickoff meeting, progress inspections, change orders, and the acceptance inspection.

Part 7: Construction Phase

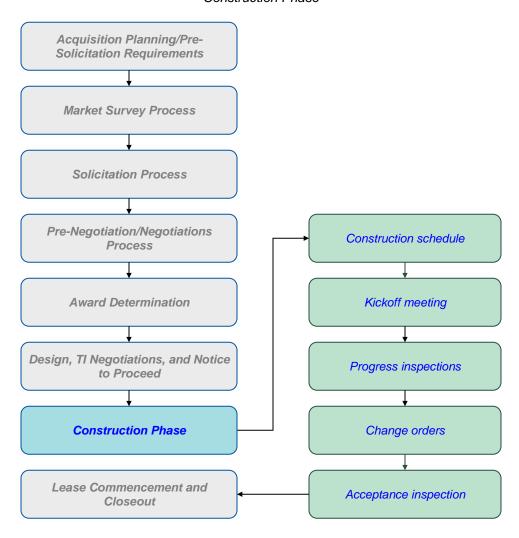




Technical support is integral to the success of this phase of the project. The Leasing Specialist must work cooperatively with team members, field office representatives, engineers, space planners, and others throughout this phase to note construction progress and deficiencies.

The following illustration shows the construction phase. Each step label is linked to the section that discusses the topic.

#### Construction Phase





2. Construction Schedule

# 2. Construction Schedule

The construction schedule is a key guiding document. The lease instructs Lessors to submit the construction schedule within the specified number of days after issuance of the NTP. It should be evaluated, and sometimes negotiated, ideally before—not during—the kickoff meeting. In-house experts can assist with schedule review.

Leasing Specialists should be familiar with the following schedule elements:

- Whether the schedule includes built-in float for weather events or holidays, and where that float is located in the schedule
- What events and tasks will impact the project schedule critical path
- Construction tasks that require long lead times
- Requirements such as security, furniture, data cabling, and other items that require early and ongoing coordination with outside contractors that may affect the schedule.

# 3. Kickoff Meeting

The kickoff meeting is an important part of the construction phase, as it establishes the protocol and expectations for all team members for this part of the process. The timing of this meeting is important; it should occur before commencing any TI construction but after the Lease Contracting Officer has issued the Notice to Proceed.

The sections below discuss the proposed attendees and agenda. Lease Contracting Officers may often assume the role of a project manager for smaller and less complex lease projects. However, regardless of whether a Lease Contracting Officer assumes the role of a project manager or a separate construction project manager is assigned to the project, project management practices—such as regular team meetings, agendas, and meeting minutes—will continue to apply during the post-award construction phase of all lease projects.

### a. Attendees

The complexity of a project may determine the appropriate attendees. The following people typically attend:

- GSA Leasing Specialist and/or Lease Contracting Officer;
- GSA Technical Team (engineer, space planner, etc.);
- GSA field office representative (including the LAM);
- Agency representatives;

### Part 7: Construction Phase

☼ 3. Kickoff Meeting



- FPS inspector;
- National broker (if applicable);
- Construction manager (CM), if applicable;
- Lessor:
  - Lessor's general contractor (GC);
  - Lessor's Architect;
  - Lessor's Project Manager (PM);
  - o Lessor's subcontractors.

# b. Agenda

The main purpose of the kickoff meeting is to establish roles, responsibilities, procedures, and the construction schedule. The following are typical agenda items for the kickoff meeting:

- Introductions and attendance
- Roles and responsibilities: Establish points of contact (phone numbers, emails, etc.), roles, and decision-making individuals for Lessor and GSA team.
- Defining the tenant agency's role, including the requirement to coordinate with the Leasing Specialist before visiting the site, making changes, or taking other such actions
- Change order procedures: Emphasize that the Lease Contracting Officer is the only person authorized to approve change orders and obligate additional funds.
- Construction schedule review: Identify any critical periods or project stages when a
  progress inspection should occur (such as before drywall is installed), or important
  periods of coordination with the client agency.
- Progress inspections, reports, and construction meetings schedule: These time frames are referenced in the lease.
- Review of finish selections or finish selection and approval process
- Furniture delivery and installation timing in relation to construction schedule
- Phone, data, and security systems installation in relation to construction schedule;
- Unique security concerns (controlled access, clearance of workers, and safeguarding Sensitive But Unclassified information)



4. Progress Inspections

- The Construction Waste Management plan, which should be submitted before and reviewed during the kickoff meeting, as well as Material Safety Data Sheet (MSDS) submittals (if necessary and applicable)
- Process to be used for determining space acceptance and tracking punch list items.

## c. Meeting Minutes

Meeting minutes must be taken at the kickoff meeting and any subsequent construction meetings. In accordance with Section 4 of the lease, the Lessor is responsible for taking and distributing minutes of these meetings.

### d. Other Items

If the Labor Standards paragraph is included in Section 3 of the lease and applies to the offered space, the submittal process for Davis-Bacon Interview Forms and Wage Payment should also be discussed.

If a subcontracting plan was required as part of the offer, then reporting on subcontracting should be discussed. The Lessor is required to submit an annual Summary Subcontract Report (SSR) electronically in the Electronic Subcontracting Reporting System (eSRS) acquisition tool.

However, since leases are no longer reported in the Federal Procurement Data System (FPDS), the Lessor must submit its Individual Subcontract Report (ISR) in paper form to the GSA Lease Contracting Officer bi-annually using the SF-294 form, Subcontracting Report for Individual Contracts.

# 4. Progress Inspections

During construction, the Government may conduct regularly scheduled progress inspections or inspections at critical points. Unscheduled visits to the construction site by unauthorized personnel are discouraged; the tenant agency must always coordinate on-site visits with the Leasing Specialist. Though Leasing Specialists will not always conduct progress inspections, they must stay informed regarding any issues that these inspections uncover in order to address them immediately.

Periodic progress inspections are important for:

- Verifying compliance with the lease construction schedule and lease construction drawings; and
- Observing the quality of construction work, and reducing the amount of costly rework.

### **Right of Access**

The lease specifies that the Government may access any space within the building during interior construction to perform inspections or install Government-furnished equipment.

The Lessor should record minutes for each meeting with GSA regarding progress inspections. During construction, if the Lessor discovers instances where the Government's directives conflict,

Part 7: Construction Phase

4. Progress Inspections



the Lessor should immediately notify the Lease Contracting Officer so that the Government can decide to how to proceed beyond the building shell.

### a. Inspection Items

Each project may have specific items that are important to observe during a progress inspection. The following items are some examples:

- Wall locations or any critical "hold to" dimensions;
- Wall height (perimeter walls/slab to slab/ceiling height);
- · Ceiling type (acoustical/drywall) and height
- Progress of work (in line with construction schedule);
- Ballistic material under the drywall;
- Wire mesh;
- · Soundproofing;
- Outlet locations (core drills);
- Cabling;
- HVAC units (such as those dedicated to a server room); and
- Restroom ABAAS compliance.
- Finishes

# b. Construction Manager Deliverables

If a CM is involved with the project, the Leasing Specialist may expect certain deliverables associated with progress inspections. The deliverables and their frequency can vary according to the project's requirements and should be specified when the CM's services are confirmed, before construction. Deliverables from a CM can include the following:

- Field reports for periodic site inspections, including condition reports
- Photographs of construction progress taken during periodic site visits
- Evaluation of construction progress, particularly in relation to construction schedule.

At times the CM reports may raise issues that the Leasing Specialist or Lease Contracting Officer needs to bring to the attention of the Lessor's team for resolution. All inspection documentation and communications should be retained in the lease project file.



5. Change Orders &

# 5. Change Orders

As defined by the FAR, a change order means a written order, signed by the contracting officer, directing the contractor to make a change that the Changes clause authorizes the contracting officer to order without the contractor's consent. This section also discusses changes requested by the Lessor. Any costs associated with a change must be determined to be fair and reasonable. A change may also result in a reduction of costs to the Government.

As indicated in the definition above, when GSA orders a change from a Lessor (or agrees to a change initiated by a Lessor), the Lease Contracting Officer must provide a written order to the Lessor identifying the scope of the change, costs, schedule, and any other pertinent provisions. If a change results in neither a cost or schedule modification nor a devaluation of the products and services to which the Government is entitled under the lease, GSA may issue a no-cost change order to the Lessor. In any case, the lease and/or design documents should be updated to reflect the change. Send a copy of the obligating documents to the Budget Office within 10 business days of obligation, or, by the end of the month for obligations of \$50,000 or more, when the client agency uses RWA funds for change orders.

### a. Lessor Changes

Whenever a change is initiated by the Lessor, the Lease Contracting Officer should be notified and apprised of the scope of the change. The Leasing Specialist and/or Lease Contracting Officer can then discuss the implications of the change with the client agency to confirm that the client's goals can still be accomplished. If not, the Leasing Specialist and/or Lease Contracting Officer should discuss with the Lessor alternatives that will be acceptable to the client and, if possible, mutually beneficial to the Lessor. If it becomes necessary for the Government to compromise any lease requirement to accommodate the Lessor, the Leasing Specialist and/or Lease Contracting Officer should expect and require an equivalent value of compensation from the Lessor, either monetary in the form of reduced rent or other benefit of equal or greater value to the Government. All changes should be memorialized in the lease through a lease amendment and in the design documents.

In some cases, the Lessor may suggest changes that will enhance the Government's use of the space but for which the Lessor derives no direct benefit. In these instances, the concepts under "Government Changes" below should be employed.

# b. Government Changes

When a change is initiated by GSA, it is generally on behalf of the client agency and usually the result of a refinement of the agency's mission, a change in requirements, or of value engineering as defined under FAR Part 48. The scope of the change must be clearly written and provided to the Lessor for pricing. It may be necessary to require the Lessor to provide drawings or other submittals sufficient for GSA to determine that a meeting of the minds has been achieved regarding the change desired. GSA should be prepared to remunerate the Lessor for design costs, even if a change order is not ultimately issued. The Leasing Specialist and/or Lease Contracting Officer should negotiate the design costs with the Lessor in advance, notify the agency of the costs, and secure funding before issuing a Notice to Proceed with design.

Part 7: Construction Phase

\$ 5. Change Orders



As with design costs, GSA requires that the agency execute an updated Occupancy Agreement, RWA, or other funding instrument before issuing the change order to the Lessor. Additionally, the following considerations apply:

- A change order <u>must</u> be reviewed and approved in writing or, in an emergency, orally, and then confirmed in writing by the Lease Contracting Officer.
- Change order pricing must be discussed and agreed upon by the Government and Lessor in writing <u>before</u> the work is started. The discussion must determine whether the Government will be paying lump sum via an RWA or whether the cost will be amortized through the rent.
- The tenant agency cannot request a change to the scope of the project that will result in
  additional costs unless approved in writing by the Lease Contracting Officer. If the Lessor
  makes changes to the scope of the project on the request of the tenant agency,
  completes the work, and does not get advance approval in writing by the Lease
  Contracting Officer, then the Government may not be liable for the cost of those changes.
  This should be conveyed to the Lessor during the first construction meeting.
- The Lessor or its architect/general contractor must maintain a change order log and keep it current throughout the term of the project.
- Change orders must be substantiated by an IGE to determine that pricing is fair and reasonable. The pricing for the change order does not have to be automatically accepted; it can and should be negotiated.
- The change orders and their pricing must be authorized in writing as they occur and memorialized in a lease amendment as they occur ..
- Government change orders may not be initiated by anyone other than the Lease Contracting Officer.

An oversight in the Lessor's preparation of TI pricing does not constitute a change in costs to the Government. However, if a Lessor's request for additional payment in a particular instance is fair and reasonable considering the total TI costs, and if funding is available from the client agency, the Lease Contracting Officer may consider it prudent to compensate the Lessor.

If the agency missed something in its original requirements or DID, it should be advised that this change could result in additional costs and that it will be at the agency's expense.

If unforeseen or unforeseeable costs are incurred during the construction phase, the costs of any potential change orders should be discussed with the agency and agreed upon with the Lessor before issuance.

# c. Legal Review

Pre-issuance review of proposed contract modifications is required:

 Where the proposed modification includes any potential settlement of claims/disputes with the contractor;



- Where the proposed modification, if issued as a stand-alone solicitation/contract, would be subject to legal review
- For below-prospectus level leases, where proposed changes (e.g. increase in rent and/or amount of square footage) would potentially result in the lease exceeding the prospectus threshold;
- For prospectus level leases, increases in rent (excluding operating cost adjustments, tax
  escalations or other routine payments previously provided for under the lease), the
  amount of square footage, or lease term;
- All novations or assignments; or
- Where a change to any of the standard General Clauses is proposed.

# 6. Acceptance Inspection

In the final inspection for space acceptance, the Government verifies that the space meets all the performance requirements of the lease agreement and the design intent drawings. This inspection is a crucial turning point, because it establishes whether the space is "substantially complete," meaning that the space will serve its intended function and the lease term can commence. Extreme care is required in arriving at this decision, since failure to notice flaws or shortcomings in the construction can have costly ramifications later on after the client agency has moved into the space. The lease covers acceptance of space and substantial completion in more detail.

Conducting the final acceptance inspection consists of the five steps discussed below.

#### a. Receive Notice from Lessor

Before completing interior construction, the Lessor must advise the Government in writing to inspect the space. The lease itself will specify the number of days before completion that the Lessor must issue this notice, and the number of days the Government has to inspect and either accept or reject it. During construction GSA should be monitoring the schedule, conducting periodic inspections, and keeping themselves and other stakeholders informed about progress.

# b. Invite Inspection Participants

Inspections can be done by the Lease Contracting Officer or designated official, but the Lease Contracting Officer makes the ultimate decision on accepting space. The schedule for the acceptance inspection may accommodate the participation of the following parties:

- Leasing Specialist (who may be represented by the technical representative);
- Engineer/CM/space planner;
- Field office representative (including the LAM);
- Agency representative;
- Lessor, possibly accompanied by a general contractor;

Part 7: Construction Phase

♦ 6. Acceptance Inspection



- Federal Protective Service;
- Fire Protection Engineer; and
- Broker (if applicable).



## c. Inspection and Acceptance

Conducting the inspection involves walking around the interior space, common areas, and exterior. The Leasing Specialist or designee should discuss all deficiencies with the Lessor's representative and make a note of them to create a "punch list" for further action. Because

acceptance of tenant improvements is final and binding, it is crucial to ensure that the inspection is rigorous and the punch list is thorough (it should be specific as to location and deficiency).

Before conducting the inspection, it is a best practice to prepare an inspection checklist tailored to the particular lease, especially to check negotiated improvements, special requirements, and change

## Round 'Em Up

Keep all inspection participants together—everyone's notes should be based on the same observed evidence.

orders. GSA Form 1204, Condition Survey Report; Form 220, Inspection Report on Work Under Contract; and Form 500, Lease Inspection Form, are available as useful models. DIDs and construction drawings should also be brought to the inspection.

The following are the types of issues to look for during the inspection:

- Measurements—The final measured space must contain the minimum ANSI/BOMA office area square footage required by the lease.
- The overall condition of the space—Should be clean, complete, ready to move in.
- Finishes—Should be fully installed, with the specified materials, in a workmanlike manner.
- Partitions, doors, and hardware—Should be the correct type and fully functional.
- ABAAS compliance—Entrances and ramps, restrooms, elevators. An accessibility checklist identifies the most common specific issues that need to be considered in designs. They involve parking, entrances, doors, elevators, drinking fountains, ramps, restrooms, and miscellaneous other requirements. GSA's accessibility checklist for bidders and training materials on ABAAS can be found at <a href="http://www.gsa.gov/graphics/pbs/ABAAS\_Leasing\_Checklist\_FINAL\_R2C15-e\_0Z5RDZ-i34K-pR.pdf">http://www.gsa.gov/graphics/pbs/ABAAS\_Leasing\_Checklist\_FINAL\_R2C15-e\_0Z5RDZ-i34K-pR.pdf</a>.
- Cost-effective energy-efficient upgrades specified in the lease contract.
- Restrooms—Should be fully equipped and stocked, with working fixtures.
- Adequate light levels.
- HVAC balancing.
- Electrical outlets—Should be operable, the correct type, and placed properly.
- Special requirements.
- Security items, such as blast film.

Part 7: Construction Phase

♦ 6. Acceptance Inspection



• Exterior features, if applicable, such as the condition of landscaping, correctly marked parking, or flag poles.

## d. Acceptance Determination

Before GSA can accept the space, it must be "substantially complete." This means that all work necessary for the Government's access, occupancy, use, and enjoyment has been completed, except for minor matters that don't interfere with access, occupancy, use, or enjoyment. If it is not capable of being used for its intended purpose and delivering its intended benefits, then it is not substantially complete and GSA may not accept the space.

Additionally, the lease requires the Lessor to provide a valid certificate of occupancy. Some jurisdictions follow a two-phase process that involves issuing a temporary certificate of occupancy, which is acceptable. If the local jurisdiction does not issue certificates of occupancy, the Lessor must have a licensed fire protection engineer verify that the space meets all applicable local codes and ordinances to provide an acceptable level of safety. It is important to understand that the certificate of occupancy is essential and required for GSA acceptance of the space, but it is not in itself sufficient for that purpose. The certificate of occupancy verifies that the space meets local legal and code requirements, but it does not verify compliance with the lease.

With new construction or if the Lessor is required to perform seismic retrofit, the Lessor must provide documentation regarding seismic certification for the space to be considered substantially complete. See Appendix G, Seismic Safety in Leasing.

Except where the square footage has already been pre-determined (such as in a succeeding lease scenario), when space is offered and accepted, the amount of ABOA square footage delivered will be confirmed by:

- The Government's measurement of plans submitted by the successful offeror as approved by the Government, and an inspection of the space to verify that the delivered space is in conformance with such plans; or
- A mutual on-site measurement of the space, if the Lease Contracting Officer determines that it is necessary.

## **Documenting the Decision**

For new and new/replacing leases, GSA must document its acceptance decision with the completed GSA form 1204, Condition Survey Report or similar form signed by the Lessor, client agency, and GSA.

If the space is deemed substantially complete, the Government accepts the space and requests a schedule for resolving punch list items, and the Lessor

#### **Good Practice**

GSA form 1204 should also capture post-occupancy deliverables, such as the as-built drawings and schedule of periodic services.

turns over keys to the client agency. The remaining punch list items and a schedule for fixing them can be documented in a lease amendment, if the additional work will go on for more than 7 days or beyond the move-in date.

If the GSA rejects the space as not substantially complete, then GSA must explain to the Lessor what is required to reach substantial completion. The Lessor should immediately undertake



Part 7: Construction Phase

remedial action and, when the space is ready, issue a subsequent notice to inspect to the Government.

Provide the field office (including the LAM) with copies of all correspondence.

## e. Re-inspect as Necessary

GSA does not always accept space after the first inspection. Re-inspect to determine substantial completion, if the space was initially rejected, or to resolve all remaining punch list items. The lease file should reflect definitive resolution of punch list items. Document the items that have been completed, the ones that are still pending, and any new problems discovered.



## Part 8: Lease Commencement and Closeout

1. Overview	2.8-1
2. Lease Amendment for Lease Term Commencement	2.8-3
3. Processing Lease Payment and Client Billing	2.8-3
a. Starting Rent	2.8-3
b. Client Billing	2.8-4
4. Close-out of Existing Lease	2.8-4
5. Post-Occupancy Deliverables	2.8-4

## 1. Overview

Once GSA determines that the space is substantially complete and accepts it, the official start date for occupancy and paying rent must be established. GSA must help the client agency plan and coordinate the dates for its move. Moving in the client agency's furniture and equipment can amount to de facto acceptance of the space.

- Lease activation—Upon acceptance of the space, the lease is activated, the client agency occupies the space, and rent payment begins.
- Project closeout—The lease acquisition project is closed out.
- Post-occupancy deliverables—The Lessor provides a number of standard items after occupancy.

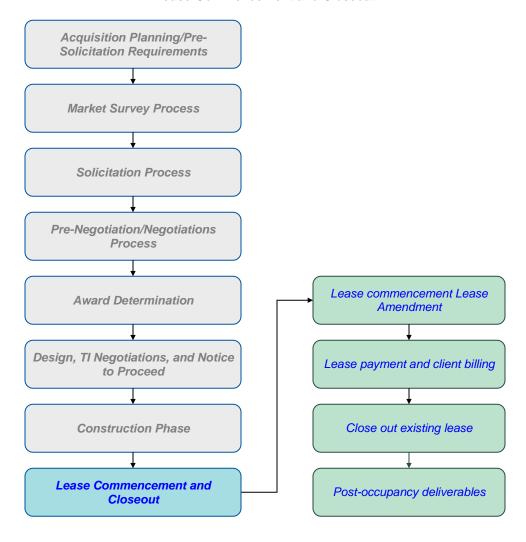
Part 8: Lease Commencement and Closeout





The following illustration shows the lease commencement and closeout phase. Each step label is linked to the section that discusses the topic.

## Lease Commencement and Closeout





Part 8: Lease Commencement and Closeout

2. Lease Amendment for Lease Term Commencement &

# 2. Lease Amendment for Lease Term Commencement

The Supplemental Lease Agreement (SLA), GSA Form 276, was formerly the vehicle used to change or modify an existing lease for any purpose. The lease reform initiative eliminated SLAs in favor of a lease amendment instrument to more accurately denote the purpose of the document. In this case, a lease amendment will be used to establish commencement of lease (or rental) payments. A typical lease amendment for lease term commencement specifies the effective and expiration dates of the lease, the square footage, and the actual rental rates including step rents, which are broken down to show subcomponents such as shell, operating, BSAC and TI rent; and other rental payment information. For leases using either a TI allowance or BSAC placeholder estimate, where either are more than the actual costs established and agreed to during the post-award TI/BSAC bidding phase, the rental rate must be adjusted downwards in accordance with the terms of the lease.

The transmittal letter shall request the lessor to return the signed lease amendment within five (5) business days of the date of mailing by the LCO. Before the LCO may execute this lease amendment, the Leasing Specialist must update REXUS project information to reflect these terms and obtain a recertification of BA53 funds.

GSA must receive a signed OA before awarding a lease or a lease amendment affecting rent. A previously signed pro forma OA for sufficient rent meets this requirement. Otherwise, produce and have the agency sign a revised OA, reflecting the new terms, before a lease amendment is executed. Once completed and signed by all parties, the lease amendment must be transmitted to the original lease distribution list.

# 3. Processing Lease Payment and Client Billing

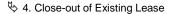
Once the lease documents are executed, the Leasing Specialist must initiate actions in REXUS to activate rent payments and client billing. This is the time to confirm all the rent components including step rents that are in the lease or amendment(s) are properly reflected as projected payment lines in the lease module in REXUS. These tasks must occur expeditiously to ensure timely payment and billing.

Note that the LCO must confirm that all tenant improvement build-out work is completed and accepted by the Government before tenant improvement reimbursements are paid to the lessor. Progress payments for initial tenant improvements are not authorized for leases.

## a. Starting Rent

Source documents—including the lease, lease amendments, and the electronic version of the annual representations and certifications completed as part of the System for Award Management registration, or a paper copy of GSA Form 3518, Representations and Certifications (as applicable)—serve as the basis for input into REXUS, where a Lease Digest (Form 620) is generated and rent payments are activated.

Part 8: Lease Commencement and Closeout





Processing rent payment requires confirming the alignment of certain Lessor information in the SAM and REXUS. SAM registration is verified pre-award as discussed previously in Part 4, Paragraph 3.a of this chapter. It is important to note that Lessors must update their SAM registrations annually; failure to do so will prevent GSA from issuing rent payments. If design and construction for the project has lasted more than a year, the Lessor may need to update SAM in order to begin rent payment.

## b. Client Billing

The source documents identified earlier, along with the signed OA, must be forwarded to the Rent Bill Management (RBM) team. Once the action is approved by RBM, the signed OA is finalized in the OA Tool and client billing begins. For guidance related to the immediate billing of a succeeding lease continuing occupancy, see Leasing Desk Guide Chapter 5, Succeeding Lease, Superseding Lease.

All OA and lease amendment documentation must be loaded into G-REX. Upon doing so, the Leasing Specialist can close out the project in REXUS.

## 4. Close-out of Existing Lease

If the new lease replaces an existing lease, Leasing Specialists must also coordinate the disposition of the old lease. This entails conducting a post-move inspection with the GSA Lease Administration Manager or designee at the previous lease location. All Government equipment and furniture must be removed, and the space left reasonably clean, allowing for normal wear and tear. Failure to remove all Government assets and clean the space could put GSA in a holdover position if the lease has already expired, meaning that the previous Lessor could file a claim for additional rent payments.

If damage has occurred to the space beyond normal wear and tear, a written agreement (a lease amendment, notation of GSA Form 1204, Condition Survey Report, etc.) to address the damage should be arranged.

The lease file should be documented to record that the lease has terminated (as further described in Chapter 17, Lease Administration). Document the final disposition and return of keys to the Lessor in the lease file, preferably using the condition survey form (GSA 1204), which is signed by the Lessor. Leasing Specialists should be mindful that it is important to document this step, regardless of the particular form used.

Update REXUS to reflect the termination of the old lease. For further guidance on lease terminations related to space expansions or reductions, see Chapter 6, Change in Square Footage—Expansion and Reduction.

## 5. Post-Occupancy Deliverables

The lease requires the Lessor to provide a number of standard items after occupancy. Additionally, other post occupancy deliverables may be required as part of the client agency's



Part 8: Lease Commencement and Closeout

5. Post-Occupancy Deliverables ♂

special requirements. The Leasing Specialist should maintain a list of deliverables throughout the RLP development, negotiation, award, post-award, and change order process for reference to confirm that the Government receives all of the information for which the Lessor has been paid.

Part 8: Lease Commencement and Closeout

♦ 5. Post-Occupancy Deliverables



The lease may include items such as the following, which the Lessor must provide:

- As-built drawings
- Schedule of periodic services
- Energy Star documentation
- Completion of LEED certification
- Recycling plan
- Radon testing
- Warranties.

#### **As-Builts**

At this point the Lessor should provide GSA with the final as-built drawings that document the actual construction as performed (as distinct from the initial construction drawings). This is an important requirement of the lease that needs to be enforced, as these drawings are increasingly important to our client agencies.

Additional agency requirements may include such items as verifying HVAC loads for space that serves special functions, such as 24-hour computer server rooms.

The Leasing Specialist should remind the Lessor of post-occupancy deliverables and monitor their delivery. If the Lessor fails to deliver any items, the Leasing Specialist must investigate the remedies stated in the lease and enforce the terms appropriately.



5. Post-Occupancy Deliverables  $\checkmark$ 

# Part 9: Attachments

Attachment 1: Combined Project Management and Acquisition Plan Template	2.9-2
Attachment 2: Acquisition Plan Template for Simplified Leases (Optional)	2.9-12
Attachment 3: Sample Non-Disclosure Form	2.9-16



🖔 Attachment 1: Combined Project Management and Acquisition Plan Template

# **Attachment 1: Combined Project Management and Acquisition Plan Template**

#### PROJECT MANAGEMENT AND ACQUISITION PLAN (ACQUISITION OF LEASEHOLD INTERESTS IN REAL PROPERTY)

THIS TEMPLATE COMBINES THE PROJECT MANAGEMENT PLAN (REQUIRED UNDER CURRENT GPM INITIATIVES) WITH THE ACQUISITION PLAN, TO BE USED FOR LOW RISK PROJECTS WHEN THE LEASING SPECIALIST/LEASE CONTRACTING OFFICER ASSUMES THE ROLE OF PROJECT MANAGER. FOR MEDIUM TO HIGH RISK PROJECTS, A SEPARATE PROJECT MANAGEMENT PLAN MUST BE PREPARED.

BACKGROUND:
REALTY SERVICES LETTER (RSL) PQ-2005-02 "Acquisition Planning for Leasing" provided instructions for acquisition Planning specifically for lease procurements. Effective May 18, 2009, the General Services Administration Acquisition MANUAL (GSAM) WAS CHANGED TO PROVIDE UPDATED GUIDANCE ON ACQUISITION PLANNING, TO IMPLEMENT NEW DOLLAR THRESHOLDS FOR ACQUISITION PLAN APPROVALS, AND TO ELIMINATE THE DISTINCTION BETWEEN LIMITED AND COMPREHENSIVE PLANS. RSL 2009-06 "Acquisition Planning for Leases – Revised" issued on August 8, 2009, revised instructions for acquisition planning for LEASE PROCUREMENTS AND IMPLEMENTED THE NEW DOLLAR THRESHOLDS AND ASSOCIATED APPROVING OFFICIALS FOR ACQUISITION PLANS WITHIN PBS. THE RSL ALSO ELIMINATED THE DISTINCTION BETWEEN LIMITED AND COMPREHENSIVE ACQUISITION PLANS CONSISTENT WITH THE GSAM CHANGES. AS OF OCTOBER, 2010, THE ACQUISITION PLAN TEMPLATE HAS BEEN REVISED AND STREAMLINED EVEN FURTHER

- THE ACQUISITION PLAN IS NO LONGER A PROGRESSIVE DOCUMENT.
- MARKET SURVEY DOCUMENTS ARE NO LONGER REQUIRED TO BE ATTACHED.
- . MARKET DATA REPLACES THE MARKET SURVEY.
- THE ACQUISITION PLAN IS ONLY REQUIRED TO BE UPDATED WHEN A MATERIAL CHANGE IS PROPOSED.

ALL LEASES, REGARDLESS OF DOLLAR VALUE, REQUIRE ACQUISITION PLANNING BEFORE BEGINNING THE PROCUREMENT. THIS TEMPLATE IS FOR LEASE ACTIONS ABOVE THE SIMPLIFIED LEASE ACQUISITION THRESHOLD (SLAT).

IF THERE IS A MATERIAL CHANGE TO THE ACQUISITION STRATEGY, SUCH AS A CHANGE IN THE PROCUREMENT METHOD, OR A SIGNIFICANT

EXPANSION OR CONTRACTION OF THE DELINEATED AREA, YOU MUST PREPARE AND OBTAIN APPROVAL OF A MEMORANDUM OR SUPPLEMENT TO THE ORIGINAL ACQUISITION PLAN WHICH ADDRESSES THE CHANGE(S). IF THERE IS NOT A MATERIAL CHANGE, BUT A CHANGE THAT AFFECTS TOTAL CONTRACT VALUE, AND THEREFORE CHANGES THE APPROVAL LEVEL, THEN YOU MUST PREPARE AND OBTAIN APPROVAL OF A MEMORANDUM EXPLANING THE CHANGE AND ATTACHING THE ORIGINALLY-APPROVED ACQUISITION PLAN WITH SIGNATURES. IF THERE IS NOT A MATERIAL CHANGE, AND THERE IS NO CHANGE TO THE APPROVAL LEVEL, THE LEASE CONTRACTING OFFICER (LCO) MUST DOCUMENT THE LEASE FILE WITH A MEMORANDUM AND ATTACH TO THE ORIGINAL ACQUISITION PLAN.

AS PART OF THE PLANNING PROCESS, THE PLANNING TEAM, AS DEFINED IN GSAM PART 507, MUST HOLD CUSTOMER DISCUSSIONS DISCOVERY OF ANY UNIQUE CUSTOMER STATUTORY OR REGULATORY REQUIREMENT APPLICABLE TO, OR THAT MAY AFFECT THE ACQUISITION PROCESS, MUST BE DOCUMENTED IN THE ACQUISITION PLAN.

NOTE: ADDITIONAL REVIEW/CONCURRENCE THRESHOLDS

- PER GSA ORDER ADM 5000.4B, LEGAL REVIEW OF ACQUISITION PLANS IS REQUIRED FOR ALL ACTIONS WHEN:
  - OVER SLAT, WHERE BEST VALUE TRADEOFF SOURCE SELECTION IS ANTICIPATED
     OVER \$20 MILLION AGGREGATE VALUE

REGIONAL OFFICE OF SMALL BUSINESS UTILIZATION (SBU) CONCURRENCE OF ACQUISITION PLANS IS REQUIRED FOR ALL ACTIONS WITH AGGREGATE VALUE OF \$6.5 MILLION OR MORE



Attachment 1: Combined Project Management and Acquisition Plan Template  ${f eta}$ 

	PROJECT MANAGEMENT AND ACQUISITION PLAN (ACQUISITION OF LEASEHOLD INTERESTS IN REAL PROPERTY)			
PROJECT NO.:				
A.	PROJECT DEFINITION/STATEMENT OF NEED			
	1. Requiring Agency(ies):			
	2. Location of pending action:(CITY AND STATE)			
	3. Project background/trigger event: BRIEFLY SUMMARIZE EVENTS (LEASE EXPIRATION, NEED FOR EXPANSION,			
	FEDERAL BUILDING SWING SPACE PROJECT, ETC) LEADING TO THIS LEASEHOLD ACTION.			
	<ol> <li>Federal inventory check: To CHECK A BOX, DOUBLE-CLICK ON THE BOX, THEN CLICK ON "CHECKED" UNDER THE DEFAULT VALUE SECTION OF THE DIALOGUE</li> </ol>			
	BOX.  No vacant federally-controlled space available			
	☐ Vacant federally-controlled space available, but not suitable due to:			
	5. REXUS action type:			
	☐ New Replacing			
	☐ Succeeding ☐ Superseding			
	☐ Expansion			
	Within Scope: Yes. Describe: No. Will prepare an OTFO justification			
	Extension (GSAM 570.405)			
	Select the purpose of the extension:  Construction Delay			
	☐ Customer DID Prep. Delay ☐ Lack of Agency Funding			
	☐ Lack of Agency POR			
	☐ Lessor Delay ☐ Market Conditions			
	☐ Strategic Portfolio Scheduling ☐ Tactical Considerations			
	☐ Other (workload, agency leaving PBS inventory, forced move, FEMA emergency, etc)			
	Describe: Describe follow-on action for long-term housing solution, if applicable			
	Renewal (GSAM 570_401)			
	☐ Evaluated ☐ Unevaluated			
	6. Estimated Square Footage to be acquired: RSF; ABOA			
	If Requirement Action Type is not a "New Requirement", provide the following:			
	a) Current lease number:			
	b) Building name and address:RSF; ABOA			
	d) Current annual rent rate: \$/RSF e) Lease expiration is:			
	f) If applicable, describe existing renewal option(s):			
	7. Anticipated Utilization Rate (UR) [UR NOT REQUIRED FOR EXTENSIONS, REDUCTIONS, OR ALTERATIONS. ANTICIPATED UR IS REQUIRED FOR LONG TERM ACTIONS OR EXPANSIONS.]			
	a) All-In: [CALCULATED AS TOTAL USF / PERSONNEL COUNT ASSIGNED TO AFFECTED SPACE]			
	b) Total Office: [CALCULATED AS TOTAL OFFICE AREA (TTO) x 0.78) / PERSONNEL COUNT ASSIGNED TO AFFECTED SPACE]			
	c) Meets GSA or Client Agency UR benchmark:			

## Part 9: Attachments



4 Attachment 1: Combined Project Management and Acquisition Plan Template

	PROJECT MANAGEMENT AND ACQUISITION PLAN (ACQUISITION OF LEASEHOLD INTERESTS IN REAL PROPERTY)
	The state of the s
	☐ Yes ☐ No Explain:
8.	Anticipated RLP Template:
	Global Automated Advanced Acquisition Program (AAAP) Simplified On-Airport Warehouse Small/3626 N/A (Extensions/Expansions/Renewal Options)
9.	Procurement Method:  Full and Open Competition (GSAM 570.3)  Source Selection Procedures:  Lowest Price Technically Acceptable  Best Value (Tradeoff)
	☐ Other Than Full and Open Competition ☐ Cost-Based Rationale (Succeeding/Superseding) ☐ Mission-Based Rationale for Limiting Competition Describe the mission-based rationale:
10.	Delineated Area considerations (not applicable for extensions or renewals)  THE FOLLOWING TWO SECTIONS OUTLINE THE STRATEGY FOR MEETING GSA'S RESPONSIBILITIES UNDER VARIOUS FEDERAL LOCATION POLICIES, INCLUDING THOSE FOUND IN EO 12072, EO 13693, AND GSA ADM 1097.1.  Section I: Economic Catalyst and Location Considerations – CURRENT LOCATION ONLY – If not applicable (new actions), check here
	a) Smart Location Index (SLI) Score: (SLI SCORE CAN BE OBTAINED FROM HTTPS://INSITE.GSA.GOV/PORTAL/CATEGORY/544526)
	b) Existing types of transit infrastructure in the metropolitan region (check all that apply):  Fixed-guideway transit (subway/light rail/bus rapid transit (BRT))  Bus/streetcar  Commuter rail  None
	Section II: Economic Catalyst Considerations – Location Strategy
	a) Local and Regional Planning and Economic Development (GSA ADM 1097.1, Section 4(a))
	i) Is there a Local Portfolio Plan (LPP): [CONSULT WITH REGIONAL PORTFOLIO MANAGEMENT OFFICE]  No Yes Delineated area and housing plan is consistent with LPP Delineated area and housing plan is not consistent with LPP for the following reason(s):
	ii) Communication with local officials:  No Yes Delineated area is consistent with local community and economic development planning Delineated area is not consistent with local community and economic development planning to the following reason(s):
	iii) Rural Development Act (RDA) Compliance:  ☐ Agency will be located within a rural area as defined by the Rural Development Act of 1972, as amended.  [INDICATE WHETHER THE DELINEATED AREA INCLUDES A RURAL TOWN CENTER]



Attachment 1: Combined Project Management and Acquisition Plan Template  ${f eta}$ 

	PROJECT MANAGEMENT AND ACQUISITION PLAN (ACQUISITION OF LEASEHOLD INTERESTS IN REAL PROPERTY)
AFFIRM	☐ Delineated area includes a rural town center as identified by local officials ☐ Delineated area does not include a rural town center ☐ Agency will not be located within a rural area [Requires written statement from the agency ing that first priority has been given to rural areas and that an urban location is required.]
	iv) Executive Order 12072 Compliance (if not applicable, check here): [APPLIES ONLY TO URBAN AREAS; NO APPLICABLE IF LOCATED WITHIN A RURAL AREA AS DESCRIBED ABOVE]  Delineated area is in the entire Central Business Area (CBA) of in order to provide for adequate competition [MUST CONTINUE TO INCLUDE THE ENTIRE CBA IN SUCH EXPANDED AREAS]  Delineated area includes a portion of the CBA of due to the following mission-related reason(s): Delineated area street boundaries are: Delineated area is outside of any CBA due to the following mission-related reason(s): [EXAMPLES MAY INCLUDE THE NEED TO BE LOCATED NEAR AN AIRPORT OR TO BE WITHIN A SPECIFIC ZIP CODE]
b)	Sustainability and Transportation Infrastructure and Plans (GSA ADM 1097.1, Section 4(b))
	Fixed-guideway transit available in the metro region: [FIXED-GUIDEWAY TRANSIT IS DEFINED AS A PUBLIC TRANSPORTATION FACILITY USING AND OCCUPYING A SEPARATE RIGHT-OF-WAY OR RAIL FOR THE EXCLUSIVE USE OPUBLIC TRANSPORTATION]  NO Yes  Delineated area includes fixed-guideway transit Delineated area does not include fixed-guideway transit for the following reason(s): [IDENTIFY STRATEGY TO INCORPORATE TRANSPORTATION FACTORS INTO THE ACQUISITION PROCESS]
c)	Sustainability of New and Existing Infrastructure (GSA ADM 1097.1, Section 4(c))
	(i) Is new lease construction probable: [NEW LEASE CONSTRUCTION MAY BE NECESSARY IF THE MARKET SURVEY INDICATES THAT THERE ARE FEW OR NO BUILDINGS THAT CAN MEET THE MINIMUM REQUIREMENTS OF THE AGENCY WITHIN THE DELINEATED AREA REQUIRING STORAGE SPACE WITH UNUSUAL HEIGHT REQUIREMENTS) AND THE TIMEFRAME FOR DELIVERY OF THE SPACE COULD ALLOW FOR NEW CONSTRUCTION.]  NO Yes
	(ii) If new construction is the only acceptable solution, discuss any site issues:[MAY INCLUDE THE FOLLOWING: ASSIGNABLE PURCHASE OPTION/DEVELOPER-PROVIDED SITE, DUE DILIGENCE, SETBACKS, ETC]
d)	Protection of the Natural Environment (GSA ADM 1097.1, Section 4(d))
	i) Wetlands and/or floodplains: [ONLY CHOOSE ONE]  Are not present within the delineated area  Are present within the delineated area  Unknown
	ii) Other NEPA considerations:
Sectio	n III: Other Delineated Area Considerations
a)	☐ Delineated area has definable boundaries
b)	☐ Delineated area does not unreasonably restrict competition
c)	Describe any pending or unresolved housing issues, otherwise, insert "none":

## Part 9: Attachments



🖔 Attachment 1: Combined Project Management and Acquisition Plan Template

	PROJECT MANAGEMENT AND ACQUISITION PLAN (ACQUISITION OF LEASEHOLD INTERESTS IN REAL PROPERTY)
PERIO	.ease Terms [Initial term includes the firm term (government does not have termination rights during this d) and non-firm or "soft" term (government has termination rights at any time during this period). Usually, this term will reflect a drop-off in the TI portion of the rent. Click "yes" on renewal options only when action ves a known renewal option to be included in the RLP or to be exercised.]
ā	a) Initial Term in Months: Estimated Lease Term: From: To:
	i) Firm Term in Months:
	ii) Soft Term in Months:
ŀ	o) Renewal Option(s)
NOTE TRANS REFLE	Total Contract Value (including any options)  Format below reflects typical lease transaction; revise as needed for expansion, extension, and renewal sactions. Rates should reflect the market data, excluding outliers (high and low) or the rate that best icts the anticipated procurement results, whichever is higher. Rates should reflect market comparables in to the requirement.
ā	a) Initial Term:
Ì	Firm Term: \$XX.XX rate/rsf x XXX,XXX rsf = XXX,XXX (Annual Rent) x X years = \$XX,XXX,XXX
ì	) Soft Term: \$XX.XX rate/rsf x XXX,XXX rsf = XXX,XXX (Annual Rent) x X years = \$XX,XXX,XXX
	FILL IN B AND C ONLY WHEN RENEWAL OPTIONS WILL BE REQUIRED UNDER THE RLP. OTHERWISE, DELETE.  O) Option 1: \$XX.XX rate/rsf x XXX,XXX rsf = XXX,XXX (Annual Rent) x X years = \$XX,XXX,XX
c	Option 2: $XXXXX$ rate/rsf x XXX,XXX rsf = XXX,XXX (Annual Rent) x X years = $XXX$ ,XXX,XX
c	) <u>Total Contract Value:</u>
	Firm Term Total <u>\$XX,XXX,XXX</u> + Soft Term Total <u>\$XX,XXX,XXX</u> + Renewal Option(s) Total <u>\$XX,XXX,XXX</u> <u>\$XX,XXX,XXX</u>
6	e) Fully Serviced:  Yes  No If No, then Net of
PROPI ABOVI APPRO	Prospectus Requirement Check [To demonstrate that a prospectus should not be prepared and submitted to iress, compare the anticipated average net annual rent (fully serviced rent less operating expenses) of a osed lease action to the prospectus threshold that applies to the fiscal year of lease award. If the net rent e or within 90% of the prospectus threshold, contact portfolio for further guidance on preparing the opriate approval package.] prospectus thresholds: \$2,850,000.00 for fiscal year 2016; \$2,850,000.00 for fiscal year 2017.
ā	a) Is a Prospectus required:
k	o) If yes, has a Prospectus been prepared:   Yes  No
ï	f yes, provide Prospectus number:  Approved by House:  Yes No Senate: Yes No If no to either, explain the status:
14. (	Customer Funding Availability



Attachment 1: Combined Project Management and Acquisition Plan Template  ${f eta}$ 

		AGEMENT AND AC	QUISITION PLAN BIN REAL PROPERTY)
Y	Forma (Draft) OA: signed by Cu res Sent, but not signed	stomer:	
	lot required (extensions at curr	ent rent)	
	ancelable Ion-Cancelable [DESIGNATION MI	JST BE MADE IN CONSULTA	TION WITH PORTFOLIO; MAJORITY OF OAS SHOULD B
CANCELABL			
	celable, provide reason:		
c) RWA	anticipated:		
□ Y □ N □ N	escribe purpose of the RWA:	_	
	the Customer Agency budgeted ] Yes ] No	d for move costs:	
	N/A (anticipated sole source	actions)	
B. COMMUNICAT	TON PLAN		
Team Matrix (III)			
	BROKER CONTRACTOR, ETC) EXP		ICAL ADVISORS/RESOURCES, ASSET MANAGER,
			ICAL ADVISORS/RESOURCES, ASSET MANAGER,  Phone Number
PROPERTY MANAGER,	BROKER CONTRACTOR, ETC) EXP		
PROPERTY MANAGER,	BROKER CONTRACTOR, ETC) EXP		
PROPERTY MANAGER,	BROKER CONTRACTOR, ETC) EXP		
PROPERTY MANAGER,	BROKER CONTRACTOR, ETC) EXP		
PROPERTY MANAGER, Name/Email	BROKER CONTRACTOR, ETC) EXP	AND TABLE AS NEEDED.	
PROPERTY MANAGER, Name/Email	Role	AND TABLE AS NEEDED.	
PROPERTY MANAGER, Name/Email  2. Stakeholder co	Role  Role  mmunication preferences (EXPA	AND TABLE AS NEEDED.	
PROPERTY MANAGER, Name/Email  2. Stakeholder co	Role  Role  mmunication preferences (EXPA	AND TABLE AS NEEDED.	
PROPERTY MANAGER, Name/Email  2. Stakeholder co	Role  Role  mmunication preferences (EXPA	AND TABLE AS NEEDED.	
PROPERTY MANAGER, Name/Email  2. Stakeholder co Audience	Role  Role  mmunication preferences (EXPA	AND TABLE AS NEEDED.  ND TABLE AS NEEDED)  Timing	
2. Stakeholder co  Audience  C. ACQUISITION 3  1. Risk and O PROJECT SPI CLASSIFY TH	Manufaction preferences (EXPAIRATEGY/PLAN OF ACTION OPPORTUNITY Management [IDENTIFICIFIC RISKS. ASSIGN A RATING TO	AND TABLE AS NEEDED.  Timing  Ty potential risks to the the likelihood and impa	
2. Stakeholder co  Audience  C. ACQUISITION 3  1. Risk and O PROJECT SPI	Management [IDENTIFIC CIFIC RISKS. ASSIGN A RATING TO E RISK BASED ON THE LIKELIHOOD.	AND TABLE AS NEEDED.  Timing  Ty potential risks to the the likelihood and impact ratings. Any	Phone Number  Project. These risks must be tailored to ref

## Part 9: Attachments



🖔 Attachment 1: Combined Project Management and Acquisition Plan Template

Description (Example: Pre- award - Lack of Competition)  2. Describe any support required from other business lines:    GE	Describe any support required from other busines    IGE		
2. Describe any support required from other business lines:    IGE	Describe any support required from other busines    IGE   Construction Drawing Review   Source Selection Panel Participation   Construction Management   Project Management	s lines:	
GEE	☐ IGE ☐ Construction Drawing Review ☐ Source Selection Panel Participation ☐ Construction Management ☐ Project Management	s lines:	
GEE	☐ IGE ☐ Construction Drawing Review ☐ Source Selection Panel Participation ☐ Construction Management ☐ Project Management	s lines:	
GE	☐ IGE ☐ Construction Drawing Review ☐ Source Selection Panel Participation ☐ Construction Management ☐ Project Management	s lines:	
GE	☐ IGE ☐ Construction Drawing Review ☐ Source Selection Panel Participation ☐ Construction Management ☐ Project Management	s lines:	
GE	☐ IGE ☐ Construction Drawing Review ☐ Source Selection Panel Participation ☐ Construction Management ☐ Project Management	s lines:	
a) On (Date) market research was conducted by using the following source(s) The market research identified X (number) potential buildings within the delineated area that could satisfy the requirement. [ATTAC MARKET RESEARCH DATA]  b) LCRM-related indices:  i) REIS data attained for this market:Yes No Not available	schedule:  Yes  No  Indicate whether the GSA Leasing Support Service  Yes		
b) LCRM-related indices:  i) REIS data attained for this market:  Yes  No Not available	a) On (Date) market research was conducted identified X (number) potential buildings within		
i) REIS data attained for this market: Yes No Not available			
	5 - 15 - 15 - 15 - 15 - 15 - 15 - 15 -	es □No □Notava	ailahle
ii) rtelevant published market data attained for this market: ☐ Yes ☐ No ☐ Not āvāllāblē	•		
	ii) Relevant published market data attaine	to for this market:   Yes	☐ I/I/O ☐ I/I/Ot available
Environmental/Energy Conservation Objectives: [THIS IS STANDARD LANGUAGE AND SHOULD NOT BE CHANGED, UNLE APPLICABLE FOR THE TYPE OF ACTION (E.G., LEASE EXTENSION)]  The lease resulting from this action will include "green" clauses in conformity with the latest PBS policies.	APPLICABLE FOR THE TYPE OF ACTION (E.G., LEASE EX	(TENSION)]	



Attachment 1: Combined Project Management and Acquisition Plan Template  ${f eta}$ 

	PROJECT MANAGEMENT AND ACQUISITION PLAN (ACQUISITION OF LEASEHOLD INTERESTS IN REAL PROPERTY)
6.	Security: This is standard language and should not be changed, unless not applicable for the type of action
	[E.G., LEASE EXTENSION)]
tal Co (or	e client agency, GSA, and the Federal Protective Service will meet and determine the security level for this requirement ting into consideration the Interagency Security Council standards. [IF THIS IS A CONTINUING NEED, EXPANSION, OR INTINUING NEED WITH EXPANSION INDICATE THE CURRENT FPS SECURITY LEVEL.] The current security level is: NUY CHOOSE ONE)1, 2, 3, or 4. [DELETE THIS PARAGRAPH IF IT IS NOT A CONTINUING NEED, EXPANSION, OR CONTINUING NEED THE EXPANSION]
7.	Small Business Considerations: [This is STANDARD LANGUAGE AND SHOULD NOT BE CHANGED, UNLESS NOT APPLICABLE FOR THE TYPE OF ACTION (E.G., LEASE EXTENSION)]  If the lessor is a large business, then the lessor will be required to complete a Small Business Subcontracting Plan for inclusion as part of the lease.
8.	Delivery and Performance Period Requirements: [THIS IS STANDARD LANGUAGE AND SHOULD NOT BE CHANGED, UNLESS NOT APPLICABLE FOR THE TYPE OF ACTION (E.G., LEASE EXTENSION)] The RLP/Lease will establish reasonable delivery and performance requirements. All buildings must meet the minimum requirements of the RLP/Lease.
9.	Discuss other matters, if any, pertinent to the Acquisition Plan that are not covered elsewhere. If none, indicate "N/A":
10	. Lease Administration Post Occupancy
	a) Lease Enforcement through Field Office: Yes No b) Tax and Operating Cost Escalations: Yes No c) Contracting for Separately Metered Utilities: Yes No d) Delegated: Yes No
11	. After project completion, close-out activities will include
	Activity Performed By
	File review All documents uploaded into G-REX for permanent electronic storage RBM data input
	Post occupancy evaluation
	Other [INSERT ACTIVITY]
MII AT RE	A file review will be completed in accordance with national and regional guidelines to ensure the accuracy and completeness of project file documentation. All documents will be uploaded into G-REX for permanent electronic storage. Notification of the completed project will be sent to the service center to provide post occupancy administration and a COTR letter will be issued to the assigned property manager.  OTE: PBS MUST PROVIDE CUSTOMER AGENCIES WITH "PBS STANDARD MILESTONE SCHEDULE" FOR EVERY PROJECT (CAPTURED IN G-EX UNDER THE 15 CUSTOMER MILESTONES SCHEDULE FOR MOST TYPES OF TRANSACTIONS). ATTACH THE G-REX CUSTOMER LESTONE REPORT TO THIS DOCUMENT. FOR CERTAIN TRANSACTION (RENEWAL, EXTENSIONS, EXPANSIONS), THE MILESTONE EVENTS TACHED MUST BE CHANGED TO REFLECT THE RESPECTIVE PROJECT ACTION. FOR EXAMPLE, A RENEWAL ACTION WOULD NOT QUIRE ISSUANCE OF AN RLP, BUT SHOULD INSTEAD INDICATE THE DATE TO "EXERCISE OPTION." KEY PROJECT EVENTS (AWARD AND FECTIVE DATES) IN SYSTEMS [REXUS AND G-REX] MUST MATCH MILESTONE EVENTS.
D. AT	TACHMENTS
	Market Research Customer Milestone Schedule

## Part 9: Attachments



🖔 Attachment 1: Combined Project Management and Acquisition Plan Template

# PROJECT MANAGEMENT AND ACQUISITION PLAN (ACQUISITION OF LEASEHOLD INTERESTS IN REAL PROPERTY)

E. REVIEW, CONCURRENCE, AND APPROVAL [Note: Preparer must modify "Concurrence" and "Approval" levels based on the threshold matrix chart below]

THRESHOLDS (INCLUDING ALL OPTIONS)	APPROVING OFFICIAL
BELOW THE SIMPLIFIED LEASE ACQUISITION THRESHOLD (SLAT) DEFINED IN GSAM PART 570	LEASE CONTRACTING OFFICER
SLAT TO AND INCLUDING \$5.5 MILLION	ONE LEVEL ABOVE LEASE CONTRACTING OFFICER
OVER \$5.5 MILLION TO AND INCLUDING \$20 MILLION	CONTRACTING DIRECTOR/REAL ESTATE DIRECTOR
OVER \$20 MILLION TO AND INCLUDING \$50 MILLION	REGIONAL OR DEPUTY COMMISSIONER, PBS.
OVER \$50 MILLION	HCA (REGIONAL COMMISSIONER)
ANY DOLLAR VALUE THAT IS COMPLEX OR CRITICAL TO AN AGENCY'S STRATEGIC OBJECTIVES AND MISSION, HIGHLY VISIBLE, OR POLITICALLY SENSITIVE	HCA (REGIONAL COMMISSIONER)
ACTIONS ABOVE SLAT INVOLVING BEST VALUE TRADEOFF SOURCE SELECTION MUST OBTAIN LEGAL REVIEW. ACTIONS \$6.5 MILLION OR MORE MUST OBTAIN CONCURRENCE BY THE REGIONAL OFFICE OF SMALL BUSINESS UTILIZATION. ACTIONS ABOVE \$20 MILLION AGGREGATE MUST OBTAIN LEGAL REVIEW.	

PAGE 9 OF 10

LEASE PROJECT MANAGEMENT AND ACQUISITION PLAN TEMPLATE (REV 12/15)





Attachment 1: Combined Project Management and Acquisition Plan Template  $\ensuremath{\mathcal{Y}}$ 

PROJECT MANAGEMENT AND A (ACQUISITION OF LEASEHOLD INTERES		
Prepared by:		
Typed Name Project Manager/Leasing Specialist	Date	
Concurred by:		
Typed Name Lease Contracting Officer (LCO)	Date	
Concurred by:		
Typed Name	Date	
One Level above LCO (if applicable)  Concurred by:		
Concurred by.		
Typed Name Regional Office of Small Business Utilization (if applicable)	Date	
Concurred by:		
Typed Name Leasing Director (if applicable)	Date	
Approved by:		
Typed Name	Date	
PBS Regional Commissioner (if applicable)		



Attachment 2: Acquisition Plan Template for Simplified Leases (Optional)

# Attachment 2: Acquisition Plan Template for Simplified Leases (Optional)

PROJECT MANAGEMENT AND ACQUISITION PLAN (ACQUISITION OF LEASEHOLD INTERESTS IN REAL PROPERTY) FOR ACQUISITIONS UNDER THE SLAT THRESHOLD					
This template is for lease actions up to the Simplified Lease Acquisition Threshold (SLAT). It combines the project management plan (required under current gPM initiatives) with the acquisition plan, for use primarily when the Leasing Specialist/Lease Contracting Officer assumes the role of Project Manager. For larger, complex projects, it is recommended the project management plan and acquisition plan remain as separate documents.					
All leases, regardless of dollar value, require acquisition planning before beginning the procurement. For leases below the SLAT, there must be a written record in the lease file that acquisition planning did occur, even if it was done verbally. Completion of this template and entry into the lease file satisfies that requirement.					
PR	DJECT NO.:				
A.	PROJECT DEFINITION/STATEMENT OF NEED:				
	1. Requiring Agency(ies):				
	2. Location of pending action: (CITY AND STATE)				
	3. Project background/trigger event: BRIEFLY SUMMARIZE EVENTS (LEASE EXPIRATION, NEED FOR EXPANSION, FEDERAL				
	BUILDING SWING SPACE PROJECT, ETC.) LEADING TO THIS LEASEHOLD ACTION.  4. Federal Inventory Check				
	4. Pederal Inventory Check  No vacant federally-controlled space available				
	☐ Vacant federally-controlled space available, but not suitable due to				
	REXUS Action Type:     To CHECK A BOX, DOUBLE CLICK ON THE BOX, THEN CLICK ON "CHECKED" UNDER THE DEFAULT VALUE SECTION OF THE DIALOGUE BOX     New New Replacing     Succeeding     Superseding     Expansion     Within Scope?    Yes. Describe     No. Will prepare an OTFO justification				
	□ Extension (GSAM 570.405)  Select the purpose of the extension: □ Construction Delay □ Lack of Agency Funding □ Lack of Agency Funding □ Lessor Delay □ Market Conditions □ Strategic Portfolio Scheduling □ Tactical Considerations □ Other (workload, agency leaving PBS inventory, forced move, FEMA emergency, etc.)  Describe follow-on action for long-term housing solution, if applicable. □				
	Renewal (GSAM 570.401) Evaluated Unevaluated				
	Estimated Square Footage to be Acquired RSF; ABOA				
	If Requirement Action Type is not a "New Requirement", provide the following:				
	a) Current lease number  b) Building name and address				





Attachment 2: Acquisition Plan Template for Simplified Leases (Optional) &

	PROJECT MANAGEMENT AND ACQUISITION PLAN (ACQUISITION OF LEASEHOLD INTERESTS IN REAL PROPERTY)  FOR ACQUISITIONS UNDER THE SLAT THRESHOLD
	c) Current square footageRSF; ABOA. d) Current annual rent rate \$ /RSF e) Lease expiration is f) If applicable, describe existing renewal option(s)
7.	Anticipated Utilization Rate (UR) [UR NOT REQUIRED FOR EXTENSIONS, REDUCTIONS, OR ALTERATIONS. ANTICIPATED UR IS REQUIRED FOR LONG TERM ACTIONS OR EXPANSIONS.]
	a) All-In: [CALCULATED AS TOTAL USF / PERSONNEL COUNT ASSIGNED TO AFFECTED SPACE] b) Total Office: [CALCULATED AS TOTAL OFFICE AREA (TTO) x 0.78) / PERSONNEL COUNT ASSIGNED TO AFFECTED SPACE] c) Meets GSA or Client Agency UR benchmark:
	Yes No Explain:
8.	Anticipated RLP Template:
	☐ Global ☐ Automated Advanced Acquisition Program (AAAP) ☐ Simplified ☐ On-Airport ☐ Warehouse ☐ Small/3626 ☐ N/A (Extensions/Expansions/Renewal Options)
9.	Procurement Method  Full and Open Competition (GSAM 570.3)  Source Selection Procedures:  Lowest Price Technically Acceptable  Best Value (Tradeoff)
	☐ Other Than Full and Open Competition ☐ Cost Based Rationale (Succeeding/Superseding Leases) ☐ Mission-Based Rationale For Limiting Competition Describe the mission-based rationale
10	Delineated area considerations (Not applicable for extension or renewals)
	a) Smart Location Index (SLI) Score – CURRENT LOCATION ONLY: (SLI SCORE CAN BE OBTAINED FROM HTTPS://INSITE.GSA.GOV/PORTAL/CATEGORY/544526)  If not applicable (new actions), check here ☐
	b) Rural Development Act (RDA) Compliance:    Agency will be located within a rural area as defined by the Rural Development Act of 1972, a amended.  [INDICATE WHETHER THE DELINEATED AREA INCLUDES A RURAL TOWN CENTER]    Delineated area includes a rural town center as identified by local officials    Delineated area does not include a rural town center    Agency will not be located within a rural area [REQUIRES WRITTEN STATEMENT FROM THE AGENCY AFFIRMING THAT FIRST PRIORITY HAS BEEN GIVEN TO RURAL AREAS AND THAT AN URBAN LOCATION IS REQUIRED.]
	c) Executive Order 12072 Compliance (if not applicable, check here): [APPLIES ONLY TO URBAN AREAS; NOT APPLICABLE IF LOCATED WITHIN A RURAL AREA AS DESCRIBED ABOVE]  Delineated area is in the entire Central Business Area (CBA) of Delineated area expands beyond the CBA of in order to provide for adequate competition [MUST CONTINUE TO INCLUDE THE ENTIRE CBA IN SUCH EXPANDED AREAS] Delineated area includes a portion of the CBA of due to the following mission-related reason(s):

## Part 9: Attachments



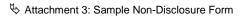
Attachment 2: Acquisition Plan Template for Simplified Leases (Optional)

			PROJECT MANAGEMENT AND ACQUISITION PLAN (ACQUISITION OF LEASEHOLD INTERESTS IN REAL PROPERTY) For Acquisitions Under the SLAT threshold		
			Delineated area street boundaries are: Delineated area is outside of any CBA due to the following mission-related reason(s): [EXAMPLES MAY INCLUDE THE NEED TO BE LOCATED NEAR AN AIRPORT OR TO BE WITHIN A SPECIFIC ZIP CODE]		
		d)	Protection of the Natural Environment (GSA ADM 1097.1, Section 4(d))  i) Wetlands and/or floodplains: [ONLY CHOOSE ONE]  Are not present within the delineated area  Are present within the delineated area  Unknown		
			ii) Other NEPA considerations:		
		e)	Other Delineated Area Considerations		
			i) Delineated area has definable boundaries ii) Delineated area does not unreasonably restrict competition iii) Describe any pending or unresolved housing issues, otherwise, insert "none":		
11.	Lease Terms: Initial term includes the firm term (Government does not have termination rights during this period) and non-firm or "soft" term (Government has termination rights at any time during this period). Usually, the soft term will reflect a drop-off in the TI portion of the rent. Click "yes" on renewal options only when action involves known renewal option to be included in the RLP or to be exercised.				
	a)	Initial Te	erm in Months		
		i) Firm	Term in Months		
		ii) Soft Term in Months			
	b)	Renewal If Yes, 0	Option(s)		
12.	Total Contract Value Including Any Options  Note: Format below reflects typical lease transaction; revise as needed for your acquisition. Rates should reflect anticipated blended rates (including amortized tenant improvements) based on the market data, excluding outliers (high and low) or the rate that best reflects the anticipated procurement results, whichever is higher. Rates should reflect market comparables similar to requirement				
	a)	Firm Te	rm: XXX,XXX (Annual Rent) x X years = \$XX,XXX,XXX		
	b)	Soft Ter	rm: XXX,XXX (Annual Rent) x X years = \$XX,XXX,XXX		
			D.D.) ONLY WHEN RENEWAL OPTIONS WILL BE REQUIRED UNDER THE RLP. OTHERWISE DELETE 1: XXX,XXX (Annual Rent) x X years = \$XX,XXX,XX		
	d)	Option 2	2: XXX,XXX (Annual Rent) x X years = \$XX,XXX,XX		
	e)	Total Co	ontract Value = _\$XX,XXX,XXX		
		Fully Se	erviced  Yes  No If "No," then Net of		



Attachment 2: Acquisition Plan Template for Simplified Leases (Optional) &

	PROJECT MANAGEMENT AND AC (ACQUISITION OF LEASEHOLD INTEREST: For Acquisitions Under the SLA:	S IN REAL PROPERTY)
В.	ACQUISITION STRATEGY/PLAN OF ACTION	
	Indicate whether the GSA Leasing Support Services (GLS) Contra	act will be utilized to perform this acquisition. (Y/N)
	2. Results of Market Research: Adequate competition anticipated?	(Y/N) Number of locations identified
	<ol> <li>Environmental/Energy Conservation Objectives: The lease resulting conformity with the latest PBS policies. (Y/N)</li> </ol>	ng from this action will include "green" clauses in
	Security. The client agency, GSA, and the Federal Protective Senthis requirement taking into consideration the Interagency Security	
	If the Lessor is a large business, then the lessor will be required to inclusion as part of the lease.	complete a Small Business Subcontracting Plan for
	6. Lease administration shall be conducted by the GSA field office. T	The agency has not requested any delegations.
	7. Discuss other matters, if any, pertinent to the Plan that are not cov	rered elsewhere. If none, indicate N/A.
C.	ACQUISITION MILESTONES	
D.	2. Market Survey Report Approval 3. Issue RLP 4. Receipt of Initial Offers 5. Final Proposal Revisions Received 6. Lease Award 7. Lease Term Commencement 8. Occupancy  REVIEW, CONCURRENCE, AND APPROVAL.	
Ì	THRESHOLDS (INCLUDING ALL OPTIONS)	APPROVING OFFICIAL
	BELOW THE SIMPLIFIED LEASE ACQUISITION THRESHOLD (SLAT) DEFINED IN GSAM PART 570.  LEASE CONT	RACTING OFFICER
Тур	repared by: rped Name roject Manager/Leasing Specialist	Date
Ap	pproved by:	
	rped Name ease Contracting Officer (LCO)	Date





# **Attachment 3: Sample Non-Disclosure Form**

GSA	Public Buildings Service
	re of Procurement Information t Number
procurements cannot be overempha procurement actions as activity repr	ervation of official information related to assized. It is essential that personnel associated with resentatives strictly comply with the applicable not limited to 18 U.S.C. §1905 and the Procurement 2107).
participating in the same proceeding required in connection with such pro	real any information to anyone who is not also g and then only to the extent that such information is oceedings. Such information is classified "FOR nination of information in this category to other of the Contracting Officer.
	ary to the foregoing provisions may result in as the penalties set forth in USC Title 18, Sec. may be deemed appropriate.
	ficer or others specifically authorized shall transmit s with the prospective offerors, per 41 CFR 102-
none of the information contained in	t Integrity Act, I agree that after receipt of proposals them or concerning the number or identity of offers c or anyone in the Government except as may be er under applicable Federal law.
Agency Signature	Date